

# EXHIBIT A

**In the Matter Of:**  
**SOCIAL MEDIA CASES**  
**JCCP5255**

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**MOTION**

**May 03, 2023**

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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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MOTION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC 12

HON. CAROLYN B. KUHL, JUDGE

SOCIAL MEDIA CASES,

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) CASE NO. JCCP5255  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MAY 3, 2023

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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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MOTION

(WEDNESDAY, MAY 3, 2023)

M A S T E R I N D E X

CHRONOLOGICAL/ALPHABETICAL ORDER OF WITNESSES

(NONE)

INDEX OF EXHIBITS

(NONE OFFERED)



SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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MOTION  
Page 1

1 CASE NUMBER: JCCP5255  
2 CASE NAME: SOCIAL MEDIA CASES  
3 LOS ANGELES, CALIFORNIA, WEDNESDAY, MAY 3, 2023  
4 DEPARTMENT SSC 12 HON. CAROLYN B. KUHL  
5 REPORTER: CHRISTINE KWON-CHANG  
6 CSR NO. 12143  
7 TIME: A.M. SESSION  
8 APPEARANCES: (AS HERETOFORE NOTED.)

9 (The following proceedings  
10 were held in open court:)

11  
12 THE COURT: Good morning everyone here on the  
13 social media cases, and we'll take appearances in the  
14 courtroom starting over here, please.

15 MS. EMMEL: Jennifer Emmel with Beasley, Allen.

16 MS. CLEOFE: Good morning, your Honor.

17 Cherisse Cleofe from Kiesel Law.

18 MS. JEFFCOTT: Emily Jeffcott of Morgan & Morgan.

19 MR. CREED: Jesse Creed of Panish, Shea, Boyle,  
20 Ravipudi.

21 MR. RAVIPUDI: Rahul Ravipudi for plaintiffs.

22 MR. KIESEL: Paul Kiesel, Your Honor, for  
23 plaintiffs.

24 MR. BERGMAN: Good morning, Your Honor.

25 Matthew Bergman, Social Media Victims Law  
26 Center.

27 THE COURT: Very good. On the defense side in  
28 the courtroom, please.

1 MS. DEGTYAREVA: Good morning, your Honor.

2 Victoria Degtyareva from Munger, Tolles &  
3 Olson on behalf of Defendant Snap.

4 MS. PIERSON: Good morning, your Honor.

5 I'm Andrea Pierson from Faegre Drinker for  
6 TikTok and Byte Dance.

7 MR. CHIOU: Good morning, Your Honor.

8 Christopher Chiou with Wilson Sonsini for  
9 Google, Alphabet, and YouTube.

10 MR. DONOHUE: Good morning, your Honor.

11 Matthew Donahue from Wilson Sonsini for  
12 Google, Alphabet, and YouTube.

13 MR. BLASCHKE: Good morning, Your Honor.

14 Matt Blaschke with King & Spalding for  
15 TikTok and Byte Dance.

16 MS. SIMONSEN: Good morning, Your Honor.

17 Ashley Simonsen from Covington & Burling  
18 for the Meta defendants.

19 MR. SCHMIDT: Good morning, Your Honor.

20 Paul Schmidt, Covington, for the Meta  
21 defendants as well.

22 MS. LADDON: Good morning, Your Honor.

23 Tarifa Laddon with Faegre Drinker for  
24 TikTok and Byte Dance.

25 MR. BLAVIN: Good morning, Your Honor.

26 Jonathan Blavin from Munger, Tolles &  
27 Olson for Snap.

28 THE COURT: Very good. You can all be seated.

1           Those of you on LACourtConnect, the clerk  
2 has taken your appearances, and I think those of you in  
3 the courtroom heard those appearances at that time, so  
4 we won't repeat them.

5           Feel free to jump in if you need to,  
6 though, those of you online.

7           And I'm signing the court reporter's  
8 order.

9           Okay. Thank you very much for your joint  
10 report, and there was a request for priority on a couple  
11 of issues, so we'll start with those.

12           So we'll start with a discussion of the  
13 parties' proposed coordination order to coordinate  
14 discovery between the MDL and the JCCP.

15           I'm going to tell you, having read your  
16 thorough discussion of your respective positions, I'm  
17 going to tell you my proposal for addressing the issue,  
18 and then you can talk to me about what I've expressed.

19           So you'll recall this was not an order I  
20 asked for. I've asked for several things, but this is  
21 not one I asked for particularly.

22           If the defendants want to ask the MDL  
23 court to enter an order about how discovery should be  
24 coordinated between the MDL and JCCP courts, that's  
25 fine.

26           I have not spoken with Judge Gonzalez  
27 Rogers about this. I know she has been traveling.

28           My own experience has been that -- and

1 this goes back to the year 2000 when we started the  
2 complex courts.

3 My experience at creating elaborate orders  
4 to govern in advance future proceedings and how the  
5 future proceedings will be conducted has some downsides.  
6 I've found that -- and I think most of us in complex  
7 have found that it's better to solve issues as they  
8 arise and better decisions can be made in concrete  
9 situations.

10 I feel confident there will be good  
11 communication between the lawyers in this case and the  
12 lawyers in the MDL. I feel confident there will be good  
13 communication between myself and Judge Gonzalez Rogers.

14 So what I propose to do is the following.  
15 I'd propose that the minute order for today set forth  
16 several general principles that I think everybody agrees  
17 on, and for the present that would be sufficient for  
18 this case.

19 At this time, depending on what the  
20 federal court does, something else may be required, but  
21 I would propose to set forth in today's minute order the  
22 following principles: One, discovery in the MDL and the  
23 JCCP should be coordinated; two, discovery requests  
24 served and responded to in the MDL will be treated as  
25 though served and responded to in the JCCP; and, third,  
26 this Court will allow discovery in -- will not allow  
27 discovery in this case that duplicates what has taken  
28 place in the MDL.

1                   So then if the defendants want this Court  
2 to enter additional orders on this topic, defendant  
3 should provide plaintiffs with a list of such proposed  
4 orders or topics, proposed order, and meet and confer.  
5 Absent an agreement, you'll let me know in a joint  
6 posting or in a future status conference report.

7                   I'll have an informal discovery conference  
8 on the issues, and then absent informal resolution,  
9 defendants could file a motion with this Court.

10                  So I'll hear from counsel on either side  
11 on this proposed action by this Court at this time.

12                  MR. BLASCHKE: Your Honor, Matt Blaschke for  
13 TikTok. I'll speak on this behalf of defendants.

14                  I appreciate the Court's comments this  
15 morning. Indeed, the principles that Your Honor just  
16 outlined are embedded in the draft coordination order  
17 that we have been discussing with the plaintiffs for  
18 sometime now.

19                  And as Your Honor noted, there is a  
20 process already in place whereby the proposed order will  
21 be submitted to Judge Gonzalez Rogers, and she'll do one  
22 of three things with that order.

23                  She'll either enter it as proposed, she'll  
24 modify it and enter it, or she won't enter it at all.  
25 And I do think that that will dictate what we do next in  
26 connection with the JCCP.

27                  Your point certainly about not having an  
28 elaborate order that is forward-looking and just not

1 necessary, those comments are well-taken, and our  
2 approach here certainly is not to have a needlessly  
3 elaborate order but rather to streamline the proceedings  
4 and take some commonsense type steps that might help us  
5 do that.

6           So with your comments in mind, Judge,  
7 we'll proceed, and we'll report back once we've engaged  
8 with the MDL.

9           THE COURT: Okay. Plaintiffs' counsel?

10          MR. CREED: Your Honor, Jesse Creed for the  
11 plaintiffs.

12           We agree with the Court's approach, and  
13 these all sound -- these three items sound fine to us.  
14 We have no objection to that.

15           I think on the second item, there might be  
16 an issue where I think -- as counsel for defendant said,  
17 we -- there are things -- there were agreement on  
18 things, and then there was sort of a list that we said  
19 we wouldn't agree to absent a noticed motion, and we  
20 outlined the concepts of what those things consist of in  
21 the joint report.

22           But I think what was also agreed to was  
23 that any discovery served and responses in the JCCP  
24 would also be applicable in the MDL. That's been agreed  
25 to by the parties as well.

26          THE COURT: Okay. That's fine, but I'm governing  
27 my turf here, so I wouldn't think it would be  
28 appropriate for me to say what is done here -- the

1 binding effect of what is done here should have on the  
2 MDL, so it's probably why I wouldn't do it in the  
3 converse, so to speak. Okay?

4 MR. CREED: Yes.

5 THE COURT: Very good.

6 Okay. So the minute order will reflect  
7 those -- those three principles.

8 So let's turn to the protective order.  
9 Was the order signed by the magistrate judge attached to  
10 the joint report?

11 I don't think I saw it.

12 MS. SIMONSEN: Your Honor, the magistrate judge  
13 has not entered the protective order yet, but he did  
14 hold a hearing on the parties' proposed initial draft  
15 and the disputed issues, and the parties are currently  
16 adjusting the order to reflect his comments at the  
17 hearing and anticipates submitting a revised proposed  
18 protective order in the near future.

19 THE COURT: So it's not final.

20 So let me just address the two issues that  
21 are raised by plaintiffs' counsel, one regarding expert  
22 disclosures.

23 So the Northern District of California has  
24 the extensive experience, probably more than anyplace in  
25 the country, with especially patent cases that have  
26 trade secret and technical information of that sort, and  
27 I certainly respect their understanding of the risks and  
28 protections for highly confidential trade secrets and

1 technical information.

2 My view, without conducting a separate  
3 research for this case, is that I don't think California  
4 allows law -- allows the identity of a nondesignated  
5 expert to be required to be disclosed to a party  
6 opponent.

7 So depending on what is done in the  
8 federal court, this issue will need to be briefed here.  
9 So we can do that now or we can wait, but that, I think,  
10 could be -- well, so that will need to be briefed.

11 So my question for counsel is -- and I'll  
12 move on to the other issue in a minute, but my question  
13 for counsel is how do you want to handle this?

14 MR. CREED: Your Honor, this is Jesse Creed for  
15 the plaintiffs.

16 We agree it would need to be briefed, and  
17 we can do that -- I think if defendants want to draft  
18 the issue, obviously, then we would agree to what is  
19 happening in the MDL vis-a-vis the protective order.

20 If the defendants want to insist on any  
21 provision that would require early disclosure, then I  
22 don't see any need to wait on briefing it.

23 MS. SIMONSEN: Your Honor, we would propose that  
24 once the MDL court enters the protective order in those  
25 proceedings, we meet and confer with plaintiffs on any  
26 revisions that may be required for purposes of these  
27 proceedings, as we've contemplated would be the course  
28 of action all along, and then we present to Your Honor a



1 proposed protective order or competing proposed  
2 protective orders along with letter briefing on any  
3 disputes, and that way we can address all of the issues  
4 at once in the context of an actual proposed order that  
5 would be before -- before Your Honor.

6 THE COURT: Okay. Let's see what the magistrate  
7 judge does, and then we'll move forward from there.

8 And what I'd propose in terms of something  
9 like this, the way I'd like you to do it is either bring  
10 it up in the next status conference and we can talk  
11 about specific briefing or use the message board and  
12 say, you know, "The magistrate judge has entered the  
13 order, and it does require disclosure experts" -- "names  
14 of experts, and here's what we'd propose for briefing  
15 the issue," or just say, "We'd like an informal  
16 conference with the Court to discuss how the issue  
17 should be briefed." Okay?

18 And for purposes of this Court, we don't  
19 do -- we don't do letter briefs. We need something that  
20 can be filed, and so it would have to be either, you  
21 know, an agreed length joint statement where each side  
22 has its portion of the joint statement or simultaneous  
23 briefing by each side on an agreed length. There's a  
24 lot of ways to do it, but it needs to be filed.

25 MS. SIMONSEN: Understood, Your Honor.

26 And I will just for your awareness let you  
27 know that we have had, I think, success doing similar  
28 joint statements when we've submitted proposed orders in

1 the MDL. I think we can certainly do something similar  
2 here in a form that would be acceptable to Your Honor,  
3 and that can be filed.

4 MR. CREED: Your Honor, a note on that.

5 Based on my experience in California  
6 practice, obviously, the appellate courts in particular,  
7 as the Court has had experience with, there's -- when  
8 you're dealing with work product, I think it should  
9 proceed by a noticed motion.

10 So if the defendants want to impose an  
11 order that would require piercing the plaintiffs' work  
12 product, then it should be by a noticed motion.

13 So we will, of course, talk to defendants  
14 if there's an alternative issue, but having dealt with a  
15 stay from the Supreme Court of California with this  
16 Court on various privilege issues, I think that's how we  
17 would prefer to proceed to create the record.

18 THE COURT: Okay. And I'm -- I am open to that.

19 I've also had the unfortunate situation  
20 where it seems like everybody's agreed to simultaneous  
21 briefs and an informal process, and then people say,  
22 "You can't order me, you know, at the last minute."

23 So there's something to what Mr. Creed  
24 says, but under those circumstances, what we ought to do  
25 is sort of agree to shorten time or something so that we  
26 don't have to -- so, you know, notice for a regular  
27 motion here is 16 court days, which is basically a  
28 month, so we could do something quicker if you stipulate

1 to that.

2 MS. SIMONSEN: Your Honor, we're happy to discuss  
3 that with plaintiffs.

4 I think, as Your Honor proposed, an  
5 informal discovery conference first where we can at  
6 least preview for Your Honor any of the outstanding  
7 issues --

8 THE COURT: On this issue, you can say, "We have  
9 had the informal conference." Okay?

10 So -- yeah, it will have to be briefed.  
11 So that's what I need to determine in an informal  
12 conference, is, you know, if I can give a tentative  
13 that's going to satisfy both sides, if I can give a  
14 tentative of, you know, what my understanding of the law  
15 is without briefing as truly a tentative, and then  
16 briefing can go forward.

17 So on this issue, we've talked about it,  
18 so we're going to have to brief it if that's what's in  
19 the federal -- in the federal order and you wanted to  
20 apply it in a similar way here.

21 MS. SIMONSEN: Understood, Your Honor.

22 THE COURT: On the 30 days to designate which  
23 parts of the deposition are confidential, and as I  
24 understand it, the entire deposition would be treated as  
25 confidential for 30 days, and then there would be a  
26 deadline to designate the parts that are confidential  
27 under the protective order.

28 I would say this. I think it's really not

1 very burdensome under California Rule of Court 2.550,  
2 which I have something additional to say about in a  
3 moment, to redact deposition testimony in a brief and  
4 file the brief conditionally under seal, which is what's  
5 required.

6           The party -- the burdensomeness really is  
7 on the party whose information is filed by an opposing  
8 party and is arguably confidential, and then that party  
9 has a greater burden because they have to move to seal  
10 within ten days.

11           And that party, if they want to avoid that  
12 burden of having to move to seal within ten days, can go  
13 through the deposition more quickly and designate the  
14 confidential -- the only parts that should be  
15 confidential before somebody needs to file a motion.

16           And everybody's going to know when motions  
17 are being filed here, so that would -- I would at this  
18 point just leave the 30 days. This is also one of those  
19 really forward-looking issues that by the time it  
20 arises, the parties will have experienced working with  
21 each other, and you may be able to deal with that  
22 informally to avoid burden on both sides when the issue  
23 arises later.

24           So I would just leave the 30 days in there  
25 at this point.

26           MR. CREED: Okay.

27           MS. SIMONSEN: Thank you, Your Honor.

28           MR. CREED: Thank you, Your Honor.

1 THE COURT: Okay. While we're talking about  
2 California Rule of Court 2.550, first of all, no one  
3 enjoys the burden of obtaining permission to seal a  
4 court record, and this Court does not enjoy ruling on  
5 motions about same.

6 However, you know, we are an institution  
7 that lives by its own credibility, and we have  
8 California Supreme Court precedence that is real wisdom  
9 about having an open court system and the importance of  
10 that, and California Rules of Court 2.550, burdensome as  
11 it is, reflects the California Supreme Court's decision  
12 in the CBS case setting forth the importance of having  
13 an open court.

14 And when you study 2.550, which I  
15 recommend to everyone if you haven't done it, you'll see  
16 that there are some places it applies and some places it  
17 doesn't apply, so anything that has to do with solving  
18 discovery disputes, it does not apply -- or that is, it  
19 has an exception for the standards that apply otherwise.

20 You know, so I can't change 2.550, and,  
21 you know, a lot of us have thought about whether  
22 there's, you know, a more expedited way that we could  
23 propose to get through this, but, you know, the Judicial  
24 Council hasn't come up with anything as yet. So I think  
25 we would just go with no separate sealing order. Follow  
26 the Rules of Court.

27 I looked at Exhibit 7 to the joint report.  
28 I don't think it would be sufficient in state court.

1 Critically, it doesn't set forth the standards that  
2 would have to be met by a party seeking to seal, which  
3 is set forth in 2.550, and it's not consistent with  
4 state procedures for how documents are filed  
5 conditionally under seal.

6 By the way, this process is also a --  
7 2.550 is a huge burden on staff as well, so setting up  
8 some new slightly different system would probably not be  
9 helpful since they've mastered that system.

10 So that's my view about sealing. We'll  
11 just -- 2.550, just follow it.

12 MS. SIMONSEN: And, Your Honor, Ashley Simonsen  
13 for the defendants.

14 To be clear, we were proposing not that  
15 Your Honor enter that specific sealing stipulation, but  
16 rather that we would make adjustments to it to account  
17 for 2.550.

18 Certainly, we have no intention of  
19 addressing the substantive standards for sealing in  
20 terms of who bears the burden of establishing a basis  
21 for sealing.

22 Really, the purpose is to try to make it a  
23 little bit easier on everyone in the sense that the  
24 sealing motions would be filed at the conclusion of  
25 briefing on any underlying motion for which there are  
26 multiple sealing motions, but we would not anticipate  
27 there would be any lesser access to information.

28 For instance -- and I think there's --

1 reasonably there would be greater access because ten  
2 days following the submission of a paper for which  
3 certain material may be subject to sealing, the  
4 designating party goes through and redacts it in as  
5 limited nature as possible and then submits it to the  
6 other side to go ahead and put in redacted form on the  
7 record.

8                   In ordinary practices, as Your Honor just  
9 observed, it may be the case that the party filing the  
10 paper that needs to be sealed may sort of overredact  
11 since the information is not their own to defend the  
12 sealing of, but if Your Honor doesn't want us to take a  
13 shot at sort of amending that stipulation to comply with  
14 California rules, certainly we hear you and we'll simply  
15 follow the code.

16           THE COURT: I would suggest following the code, I  
17 really would.

18                   It's -- and, yes, a party filing a paper  
19 will overredact, but that's because under your  
20 confidentiality orders, usually the producing party at  
21 the first stage will overdesignate as confidential, and  
22 we understand why that happens, but then it has to be  
23 unwound at that point, i.e., ten days after, let's say,  
24 the plaintiffs file a motion.

25                   So the -- so I think we ought to -- if you  
26 want to bring it back again, I'll listen, but I think  
27 that's what we ought to do.

28                   By the way, I usually hear those motions

1 at the same time I hear the substantive motion, so we  
2 don't have a separate -- separate appearance, but I  
3 realize it's a lot of work that has to be done  
4 immediately following.

5 But, you know, the Rules of Courts say  
6 that the clerk is supposed to unseal the thing by court  
7 rule if the motion isn't filed.

8 Now, I'll tell you we allow do-overs,  
9 right, if people don't quite make that deadline, but  
10 that's -- that's the rule.

11 MS. SIMONSEN: I understand.

12 THE COURT: What I would suggest is if you come  
13 up with something good, submit it to the Civil Rules  
14 Committee of the Judicial Council as a proposal because  
15 all of us would like our life made easier in some way.

16 Okay. All right. So just noting that you  
17 referenced the deadline for the master complaint, and  
18 that's moving forward. That's excellent.

19 User interface day, so when I was thinking  
20 about a science day, so to speak, regarding user  
21 experiences with various products, I had not thought  
22 about that there would be a temporal problem; that is,  
23 what user experience is over different periods of time  
24 alleged in the complaints or today, for that matter, and  
25 I think it's too complicated before the demurrers are  
26 adjudicated, especially because we have to be so careful  
27 not to run afoul of the rule that facts outside the  
28 allegations of the complaint can't be considered on



1 demurrer.

2                   So I think we should let this issue go for  
3 now, and I'm sorry that people have spent a lot of time  
4 on it. It's something I threw out without thinking  
5 through very well. Perhaps it will be helpful at some  
6 point later.

7                   Okay. The demurrer is scheduled, so I  
8 have looked over the competing schedules and the reasons  
9 for them, and thank you for your efforts to agree, and  
10 even though you didn't agree, the discussions were  
11 helpful for me in thinking about a schedule.

12                   So here's the schedule that I would put  
13 out there as a tentative subject to further argument if  
14 you want to and weighing the competing considerations.

15                   So on or before -- and I put this in the  
16 minute order.

17                   On or before June 2, plaintiffs to  
18 identify three short form complaints that together with  
19 the master complaint would be the subject of the  
20 demurrers, and then July 14 or four weeks after the  
21 Supreme Court decision in Gonzalez versus Google,  
22 whichever is later, defendants will file joint and  
23 individual demurrers.

24                   I have no inside information, but knowing  
25 what the Supreme Court has on its calendar still, my  
26 guess would be it would be very close to June 30 anyway  
27 that they're going to decide this, so really it would be  
28 running four weeks from the Supreme Court decision, but

1 July 14 if they do get it done sooner.

2 And then four weeks after the demurrers  
3 are filed, plaintiffs are to file their opposition, and  
4 three weeks after the opposition is filed, defendants  
5 are to file a unitary reply brief.

6 I would ask for a unitary reply brief. If  
7 at the time I've looked at the opposition from the  
8 plaintiffs and you feel you should have separate ones,  
9 you can let me know, but knowing how these things tend  
10 to work, I think you'll want a unitary reply brief, and  
11 that would be most helpful to me.

12 MR. SCHMIDT: And that's what we're trying to do  
13 both with the opening brief, Your Honor, Paul Schmidt  
14 for Meta, and with the reply brief is to have unitary  
15 briefs.

16 That obviously takes a lot of  
17 coordination, so we appreciate that time, but that is  
18 what we're aiming for. There's a possibility that there  
19 might be companion individual defendant briefs, but  
20 we're going to put as much as we can in unified briefs.

21 In the MDL, we did one unified brief, and  
22 then one defendant had a supplementary brief, and I  
23 would expect -- I would hope that we would get something  
24 very similar here.

25 THE COURT: That would meet my expectations.  
26 That sounds good.

27 So -- now, I say four weeks rather than 30  
28 or 31 days, and the reason is because the Supreme

1 Court -- I'm assuming it's going to run from the Supreme  
2 Court decision.

3 The Supreme Court will issue its decision  
4 on a weekday, and that way when we count weeks, we're  
5 counting weekdays, and we don't have a problem of what  
6 if the 30th or 31st day falls on a weekend.

7 Everyone knows when we're filing. Okay?

8 However, obviously, we don't know when the  
9 Supreme Court is going to decide, and therefore I'm not  
10 setting a hearing date today.

11 So here's what I'd like you to do, and  
12 I'll put this in the minute order. I'd like you to file  
13 a stipulation and proposed order re requested hearing  
14 date after Gonzales versus Google is decided and set  
15 forth the actual dates each brief will be filed, and  
16 also in that pleading, I'd like you to propose or  
17 repropose page lengths.

18 And at that point, the parties will have  
19 been able to see at least some of the briefing in  
20 federal court and perhaps have a better sense of what's  
21 needed for the demurrers here.

22 Based on -- I'll tell you that based on my  
23 current anticipation of what might have to be covered, I  
24 would not anticipate approving a hundred pages, so --  
25 but you can ask again.

26 So if you don't agree on the page length,  
27 I'll consider your positions at that time and make my  
28 own judgment.

1                   So that would be a stipulation and  
2 proposed order setting forth the schedule for the  
3 briefing, asking for the page lengths that you want, if  
4 you agree.

5                   If you disagree, I would suggest you just  
6 set forth your -- your respective positions in that  
7 stipulation even though it's not stipulated to. Okay?

8           MR. SCHMIDT: Your Honor, may I speak briefly on  
9 the page?

10          THE COURT: Yes.

11          MS. SIMONSEN: That is an issue that I think  
12 we'll probably not have agreement on given where the  
13 parties are right now, and I'm mindful about what Your  
14 Honor said about a hundred pages.

15                 That's what we used in the MDL with, from  
16 our perspective, much narrower claims that -- we were  
17 moving on 5 claims. Here, we're moving on 14 claims.

18                 We had the wrinkle in the MDL that we were  
19 doing all state law, but essentially that played itself  
20 out with a big footnote or string cite listing cases  
21 from different jurisdictions, as opposed to multiple  
22 arguments for us as a defense group to come in much  
23 below that.

24                 Given the complexity of the claims here,  
25 given the Section 230 and First Amendment issues we  
26 haven't even briefed yet in the MDL within those hundred  
27 pages, it is really, really challenging.

28                 If we were not coordinating on the defense

1 and we each filed our individual briefs, that would  
2 actually play out to many more pages than a hundred  
3 pages across the defense group.

4           It would help to have probably earlier  
5 guidance on that because -- for example, what the  
6 plaintiffs proposed from our perspective is just not a  
7 serious proposal. We can't address facts regarding each  
8 individual defendant, let alone 14 different claims, in  
9 a 300-page complaint in 30 pages.

10           Having some earlier guidance on that might  
11 help us draft because we are starting to draft now with  
12 the hope that we will get a hundred pages, with the  
13 thought that as remarkable as a hundred pages sounds,  
14 it's certainly a big brief, that's from our perspective  
15 going to be hard to reach in terms of the different  
16 arguments we have to present given the complaint that  
17 we've received.

18           THE COURT: Well, draft with the idea in mind  
19 that you're not going to get a hundred pages, but you're  
20 going to get more than 30 pages.

21           Thirty pages is too little for this, but I  
22 don't think I've ever had a hundred-page brief, so there  
23 you are.

24           MR. SCHMIDT: May I bring one other issue on  
25 that, Your Honor?

26           One thing we hadn't anticipated when we  
27 proposed the hundred pages is the choice of law issues  
28 and having to brief choice of law issues.

1                   Your Honor no doubt will recall that when  
2 we were here last time, I raised the issue whether  
3 plaintiffs would be moving -- would be identifying  
4 plaintiffs from different states and that that might  
5 implicate choice of law issues.

6                   Plaintiffs didn't say they even had  
7 plaintiffs from other states. We've now been told as of  
8 Monday that two or one of the three plaintiffs they plan  
9 to pick are from other states, and that creates a  
10 serious concern as to whether that really advances the  
11 litigation.

12                   We have only one other state that has  
13 double digit plaintiffs. Most states have one or two  
14 plaintiffs, and if we get an Oregon or Georgia or  
15 New York plaintiff where there's only one plaintiff in  
16 that state, it doesn't do much to advance the  
17 litigation.

18                   But it also adds a wrinkle in terms of  
19 potentially having to brief choice of law which can be a  
20 complicated issue-by-issue question that we need to  
21 brief if we're trying to live within 100 pages for three  
22 plaintiffs with 14 claims.

23                   THE COURT: You're going to have that in the  
24 federal court case anyway, aren't you, choice of law?

25                   MR. SCHMIDT: In the federal court case, because  
26 we were essentially moving on all states, we didn't have  
27 to do the same level of plaintiff-by-plaintiff analysis  
28 as to what the controlling law is and certainly not the

1 same level of claim-by-claim analysis.

2 Just as an example, in the draft master  
3 complaint, we have -- the plaintiffs pled a California  
4 sex discrimination claim. Presumably, they're going to  
5 shift that for non-California plaintiffs, but that would  
6 be a choice of law issue that we just didn't have to  
7 grapple with in the MDL.

8 And there's similar kinds of statutory  
9 claims that are different across the states where there  
10 are actually significant differences within the states  
11 that we didn't have to address in the MDL that we will  
12 here.

13 MS. JEFFCOTT: Your Honor, we haven't decided  
14 which plaintiffs would be subject to demurrer, but I  
15 think at this time, we -- we anticipate that more likely  
16 that all plaintiffs will be from California, so this  
17 issue may be mooted in its entirety.

18 We obviously don't want to commit to that  
19 at this point in time just because we still have a month  
20 to review additional claims, but we're willing to work  
21 with the defense to the extent that we do select a  
22 non-California plaintiff for a demurrer.

23 THE COURT: Okay. That might fall out or it  
24 might not, but that's something that you'll know by the  
25 time you're asking me for page lengths. Okay?

26 MR. CREED: Your Honor, just one clarification on  
27 the stipulation and proposed order. Maybe this is clear  
28 to others, but I want to make sure I understand.

1                   That would be -- so that would be a  
2 stipulation we would file after the Supreme Court's  
3 opinion in Gonzalez?

4                   THE COURT: Correct.

5                   So once that opinion is filed, we will  
6 know precise dates for the filing of each. So the stip  
7 and proposed order would have two purposes.

8                   Purpose number one would be to ask for a  
9 hearing date essentially based on what you now know are  
10 the specific calendar dates, and the second purpose  
11 would be to address the page length issue.

12                  All right. Very good.

13                  You had a section in the joint report  
14 called "Predicates to Discovery," and discovery's stayed  
15 now as you know, so I don't think I need to do anything  
16 else except now we're going to talk about plaintiff fact  
17 sheets.

18                  And I think, first of all, I want to thank  
19 the parties for working on this. It does take a lot of  
20 time. A lot I think can be done between the parties  
21 between now and when the demurrers are argued.

22                  I don't know if the plaintiffs are using a  
23 data aggregator. It certainly takes time to work with  
24 that -- with such an entity and to, you know, figure out  
25 the electronic system for the plaintiffs to be entering  
26 their responses electronically.

27                  MR. CREED: We do anticipate using a data  
28 aggregator. Which one we use has not been determined.



1 We haven't selected one. We've been talking to Two-1,  
2 so that's the latest update on that, Your Honor.

3 THE COURT: I would really encourage you to --  
4 and, again, sometimes both sides will agree. I don't  
5 know if you will or not, but start early.

6 I've got -- I have another case which is a  
7 mass tort. It's not a JCCP, but it involves thousands  
8 of plaintiffs, and plaintiffs' counsel is telling me  
9 it's taking them months and months and months to work  
10 with the data aggregator to get the electronic system  
11 correct so that the responses are going to be recorded  
12 correctly, so I would get going on that.

13 I know plaintiffs are anxious to move  
14 discovery forward. I would really recommend that you  
15 focus on that.

16 I know that the data aggregator will then  
17 say -- will need time with the specific questions: How  
18 many subparts? Do you jump to the third question?

19 I get all of that, but the process should  
20 be started in my opinion.

21 MS. JEFFCOTT: And, Your Honor, Emily Jeffcott  
22 for plaintiffs.

23 And, Your Honor, we have solicited a quote  
24 from one entity that can do this, and we'll work with  
25 defendants to see if we can come to an agreeable  
26 solution on that end.

27 Some of us on this end have had great  
28 success with certain companies in being able to move

1 through from plaintiff fact sheet all the way through to  
2 the end of the case.

3 THE COURT: Yes, and I don't need -- you all are  
4 sophisticated. I don't need to tell you that the  
5 plaintiff fact sheet has many uses, including post  
6 settlement, if there's -- if there ever is a settlement  
7 and it's an inventory or global settlement, you need to  
8 think through those fact sheets with the far end of the  
9 case in mind, and I know you know that.

10 MR. CREED: Your Honor, on that note, I think --  
11 I think that in order to even discuss having an informed  
12 discuss with a data aggregator, we would need to have a  
13 fixed fact sheet so they understand what questions are  
14 being asked --

15 THE COURT: I don't think so. I think you need  
16 to start with them and get them in place.

17 So the other thing that I would counsel  
18 is, and this applies as much to the defendant as to the  
19 plaintiffs and perhaps more, don't ask too much.

20 If you have too many subparts, it's going  
21 to be difficult for you -- for defendants to ask me to  
22 enforce that adequately, so, you know, think about  
23 something that, first of all, is difficult for a  
24 layperson to understand and has holes in it, and then  
25 you come and ask me to dismiss that plaintiff because  
26 they have those holes, and, you know, they've been asked  
27 to re-respond and they haven't re-responded, are you  
28 going to bring me a half filled out thing that has

1 detail that's missing and ask me to dismiss the claim?

2 That's a hard sell. Okay? So really  
3 limit it to what you need to evaluate the case.

4 Obviously, before any case would go to  
5 trial, you're going to have depositions and IMEs and all  
6 kinds of things, so don't -- don't overask in the  
7 plaintiff fact sheet.

8 The other thing that I really recommend is  
9 to try them out on laypeople. We're lawyers, and we  
10 have that problem of asking things using our language,  
11 and from defense -- from plaintiffs' standpoint, you  
12 don't want to have to hang over your clients and answer  
13 all those questions about what does this mean.

14 From defendant's standpoint, you don't  
15 want to confront someone in deposition and they say, "I  
16 have no idea what this meant," and then the answers that  
17 you got are not useful.

18 So try them out on laypeople and simplify  
19 and simplify. Okay?

20 MS. SIMONSEN: It's helpful guidance, Your Honor.  
21 Thank you.

22 THE COURT: And I have had -- we've had a lot  
23 of -- a lot of experience with plaintiff fact sheets,  
24 and I always review them too because even if counsel  
25 agree, there are things there that maybe I can see that  
26 counsel haven't thought of. So those are my  
27 suggestions.

28 I would propose to do this and to ask that

1 by August 1 the parties submit competing proposed fact  
2 sheets for the Court's review and comment.

3 Now, hopefully you'll have met and  
4 conferred and, you know, eliminated as many issues as  
5 you can, but at that point, I would be able to give you  
6 kind of a check-in and my thoughts about it to send you  
7 back to the negotiating table if you haven't -- if you  
8 haven't agreed.

9 Does that sound reasonable?

10 MR. CREED: It does, Your Honor.

11 Could we also include in that discussion  
12 document -- plaintiffs' specific document request that  
13 we would make?

14 THE COURT: Yeah.

15 Ordinarily -- well, to me the plaintiff  
16 fact sheet includes document requests that are -- it  
17 would be in the fact sheet; right?

18 MR. CREED: No.

19 These are the -- there is document  
20 requests in the fact sheet that the defendants had  
21 proposed, and we have provided an edit yesterday to it.

22 These are the document requests that we --  
23 plaintiffs would propound on defendants for plaintiffs'  
24 specific documents that would inform the plaintiffs when  
25 they're -- when they're completing the fact sheet.

26 THE COURT: Yeah, I haven't seen that picked up  
27 in this -- in the joint report, but I continue to think  
28 it's a good idea.

1 MS. SIMONSEN: And, Your Honor, if I may, I know  
2 at the initial status conference you had suggested, in  
3 connection with negotiating a plaintiff fact sheet, that  
4 plaintiffs might suggest a very limited universe of data  
5 that they might request from the defendants.

6 Purely for the purposes of ensuring they  
7 have access to data that they wouldn't otherwise have  
8 access to that maybe is needed to complete the fact  
9 sheet, we received from plaintiff last Friday a  
10 voluminous list of document requests, all documents  
11 relating to everything under the sun relating to these  
12 plaintiffs, third parties.

13 I do not, respectfully, believe it was  
14 within the spirit of what Your Honor had contemplated at  
15 the first status conference. I also would note that  
16 Your Honor did observe that any motion to compel  
17 relating to those initial data requests should happen  
18 after the demurrers are resolved, which we do think it's  
19 consistent with the fact that discovery is stayed.

20 We think we can negotiate the plaintiff  
21 fact sheet, and as we get guidance from Your Honor on  
22 the plaintiff fact sheet and how that's coming along, I  
23 think that will in turn inform potentially the user data  
24 request plaintiffs are making. So I would propose we  
25 not make that part of the plaintiff fact sheet  
26 discussion, but rather take it up after we're further  
27 along on the plaintiff fact sheet.

28 THE COURT: I'm glad you're continuing to discuss

1 the potential for information to be provided prior to --  
2 prior to the plaintiff fact sheet.

3 I think they go hand in hand, so I would  
4 ask you, again, on August 1 to let me know where you are  
5 on those as well.

6 And, you know, if this -- I'll just say  
7 it. Plaintiffs, if this production of documents is  
8 going to serve the purpose we want it to serve, it has  
9 to be narrow and pointed at what the plaintiff would  
10 reasonably want to see to refresh recollection to answer  
11 the plaintiff fact sheets. That's what I'm  
12 contemplating.

13 MR. CREED: Your Honor, we received an 88-page  
14 fact sheet that requested voluminous --

15 THE COURT: I understand.

16 MR. CREED: Every one of their requests can be  
17 tied to a particular question.

18 We served back, I think, a 20-page fact  
19 sheet. I may be off by a couple pages. We have an  
20 edited list of our document requests that would  
21 correspond with our fact sheet that would be  
22 significantly smaller.

23 THE COURT: And I think it's smart for plaintiffs  
24 to present their own proposed fact sheet too. I think  
25 in some ways, plaintiffs' counsel are -- have a better  
26 perspective on what the fact sheet ought to look like.

27 So you'll go back and forth, and August 1  
28 I'll take a look at it and see where you're at. Okay?

1                   So on August 1, we'll put in the minute  
2 order today the parties are to submit competing proposed  
3 fact sheets to the Court for review and document -- and  
4 comment -- for the Court's review and comment, and  
5 plaintiff -- and -- and proposed early production by  
6 defendant of limited documents relevant to plaintiffs'  
7 ability to respond to the fact sheets.

8                   Okay. So you'll submit that.

9                   What I'm going to do is what we call in  
10 our system a nonappearance case review, and that means  
11 that -- and I'll set that for August -- August 4.

12                   That means that on August 4, I'll open up  
13 the electronic file and look for this filing that you  
14 all have done, so I'm envisioning that this would be  
15 sort of a cover sheet that would say, you know,  
16 plaintiff and defendants' proposed fact sheet, et  
17 cetera, and that it would attach as exhibits your --  
18 now, if you can get to the point where you have a red  
19 line, that would be even better.

20                   Okay? All right? So that's what that  
21 would be.

22                   And then what I'll do on August 4,  
23 nonappearances, take a look at that, and maybe we've got  
24 a status conference coming up in ten days, and we'll  
25 talk about it at the status conference, and I'll let you  
26 know or maybe I'll set a separate conference to talk  
27 about the fact sheets. Okay?

28                   MS. SIMONSEN: That's helpful, Your Honor.

1                   With respect to the user data requests,  
2 would it be helpful -- I know there are certain  
3 categories of data that plaintiffs are requesting, and  
4 we as defendants know that they have access to that  
5 information through their own social media accounts.

6                   In order to explain to Your Honor why our  
7 proposed initial user data requests, if we do think any  
8 are appropriate, are limited in the way that they are,  
9 would it be helpful for us to submit any kind of short  
10 briefing or explanation on that issue for Your Honor?

11               THE COURT: I think what would be most helpful is  
12 to just have, you know, the documents.

13                   In the cover sheet, you can each use a  
14 page maybe to set forth where you're at and why, so to  
15 speak, but I should be able to discern the issues.

16                   And -- anyway, and if you have that  
17 information about the individual accounts, why don't you  
18 give it to them now?

19                   Okay. But after the demurrer. Right. I  
20 understand. We've got a demurrer coming up.

21               MS. SIMONSEN: My point only, Your Honor, is that  
22 they actually have access to the information, and we  
23 have our first meet-and-confer on this issue scheduled I  
24 believe for tomorrow, and so we'll be walking them  
25 through that so that they understand what they already  
26 have access to, right, in order to complete these  
27 plaintiff fact sheets.

28               THE COURT: Okay.



1 MR. CREED: We disagree, but I'm not going to say  
2 anything further.

3 THE COURT: That's fine. That's fine.

4 Well, you know, we all know that in  
5 discovery the fact that one side has it doesn't mean the  
6 other side doesn't have to give it, ultimately, but --  
7 okay.

8 This bring us to the plaintiff  
9 preservation form, and I think as I may have said  
10 earlier, but if I haven't, I'll say now, I think both  
11 sides have a lot to lose if this isn't done properly.

12 So here is what I'd propose. I'd propose  
13 that the parties submit an agreed form -- and we know  
14 what this is about, right, the plaintiff preservation  
15 form?

16 This is a form that the plaintiffs would  
17 fill out to give to the defendants with respect to what  
18 the plaintiffs know about their accounts so that -- what  
19 they know at this point in time about those accounts so  
20 that the defendants are on notice as to -- of that  
21 information so that defendants can feed that into their  
22 evaluation of what their document preservation  
23 responsibilities are. Okay? That's what this is about.

24 So I would suggest that I have you submit  
25 either an agreed form or competing proposed forms by  
26 May 26th, together with a proposal from plaintiffs as to  
27 when they're going to complete the forms.

28 In other words, you know, okay, now if we

1 have agreed on a form, there should be a deadline,  
2 right, for plaintiffs to individually complete these  
3 forms. Okay?

4 And then if there's not an agreement, I'll  
5 have a conference hopefully very quickly to resolve  
6 this. If we need some briefing, I'll give you a chance  
7 for briefing.

8 So when I have these conferences on a  
9 particular subject, you know, if I can mediate a  
10 solution, that's great. If I can't, then I'll say  
11 here's how we're going to brief whatever issues we know  
12 are remaining at that point.

13 Does that work for you?

14 MR. CREED: Yes, it does.

15 Just really quick, at the last hearing I  
16 think Your Honor turned to us and said get them the  
17 information really quickly, so we've actually turned  
18 over the information requested on the form for many of  
19 the --

20 THE COURT: I understand that, and I get that  
21 there's -- yeah. I get that, but I think it's going to  
22 be far preferable in the long run to have something  
23 that says, "Here's what needs to be turned over," so  
24 that can be tracked in every case.

25 MR. CREED: We will do it.

26 I think our goal though in giving the  
27 information quickly is we understand that the  
28 accounts -- there may be some -- they might be ephemeral

1 in some respects, so we want to make sure by giving the  
2 following, we've triggered the preservation obligation,  
3 whether it's on some form or separately from the forms.

4 THE COURT: I haven't made any order. Right?

5 The preservation responsibilities are what  
6 they are, so -- yeah. Okay. So -- all right.

7 By May 26th, parties are to submit an  
8 agreed plaintiff preservation form or competing forms  
9 together with the proposal for when the plaintiffs will  
10 provide completed forms.

11 So you'll file that May 26th, and for me I  
12 will set June 1 as a nonappearance case review, so I'll  
13 look at that on that day and see what needs to be --  
14 whether there needs to be an informal conference or  
15 whether I just tell you go ahead with what you've agreed  
16 to. Okay?

17 MS. SIMONSEN: Thank you, Your Honor.

18 THE COURT: And if you agree to something  
19 earlier, just, you know, submit it as a proposed order.

20 MR. CREED: I think we are largely in agreement.  
21 We're just --

22 THE COURT: Okay. Now you've got a deadline.

23 Okay. All right. The CSAM preservation  
24 order, looking at those, and those were attached to the  
25 joint report, it didn't look like there was a whole lot  
26 of agreement.

27 Am I reading that correctly?

28 MS. SIMONSEN: Well, Your Honor, if I may, there

1 actually is one important area of agreement since we  
2 last brought this issue to Your Honor.

3 I know at the outset of these proceedings,  
4 both sides raised the issue of the complication around  
5 preserving CSAM which is contraband.

6 The parties having met and conferred I  
7 think quite productively on this are now in agreement  
8 that the defendants cannot preserve actual CSAM without  
9 running afoul of federal criminal law, so we've instead  
10 started to negotiate alternatives to the preservation of  
11 the actual CSAM as plaintiffs had originally thought  
12 might be possible.

13 So what we're now discussing is are there  
14 alternative ways we can ensure the CSAM itself isn't  
15 destroyed, and what plaintiffs initially proposed to us,  
16 which I think makes some good sense, is that each  
17 defendant represent that in the ordinary course of their  
18 reporting practices to NCMEC, they actually submit the  
19 CSAM itself with their NCMEC reports.

20 And defendants' understanding is that  
21 NCMEC maintains the CSAM indefinitely, so it's being  
22 preserved at NCMEC, and for that reason, defendants  
23 believe that the concerns that animated both sides  
24 raising this in the first instance and Your Honor's  
25 concerns are really resolved, they're addressed.

26 Now, it is in defendants' sole discretion  
27 whether to submit actual CSAM with NCMEC reports, but  
28 all four defendants, to address plaintiffs' concerns and

1 Your Honor's concerns, have investigated and now have  
2 made the representation to plaintiffs that they do  
3 report the actual CSAM with the NCMEC reports.

4 They have, furthermore, agreed in  
5 connection with meeting and conferring on this CSAM  
6 preservation order that they would inform plaintiffs to  
7 the extent that their NCMEC reporting practices change  
8 in such a way that they longer report the actual CSAM  
9 with the report.

10 And we would submit, Your Honor, that that  
11 really resolves the issue because all that remains after  
12 you account for the fact that the actual CSAM can't be  
13 preserved by the defendants but is being preserved by  
14 NCMEC is information relating to the CSAM, and the  
15 parties are in the course of and have made, I think, a  
16 lot of good progress negotiating a separate preservation  
17 order that will cover all of the other types of  
18 information that defendants are preserving in these  
19 cases.

20 And that would include -- just to give  
21 Your Honor an example, for Meta we have explained to  
22 plaintiffs that we have account snapshots for relevant  
23 accounts that we've identified and that those account  
24 snapshots have certain information in them which we're  
25 sharing with plaintiffs.

26 Some of that information includes  
27 information relating to NCMEC reports, and therefore we  
28 can negotiate in the context of that preservation order,

1 that broader preservation order, what type of  
2 information defendants are preserving not only about  
3 CSAM related information but all of the other  
4 information that is relevant in these cases.

5 THE COURT: So for the record, could you -- and  
6 for me, could you give the full name of NCMEC, is it?

7 MS. SIMONSEN: I believe it's the National Center  
8 for Missing and Exploited Children.

9 THE COURT: Okay. Let me ask --

10 MR. CREED: It's a nonprofit that's been charged  
11 by Congress to effectively handle these reports.

12 THE COURT: Okay. Would they make the  
13 information -- I mean, these are pictures; right?

14 MS. SIMONSEN: Yes.

15 THE COURT: It could be other things I suppose,  
16 but --

17 MS. SIMONSEN: When we're talking about the  
18 actual CSAM, we're talking about photographs. I think  
19 it could also potentially be something that's not a  
20 photo -- I'm not certain about that, so I don't want to  
21 represent, but it's not, for instance --

22 THE COURT: There's so many things that we don't  
23 know about what reality might -- reality mirroring  
24 images or other things that might come about.

25 Is there any -- and I want to hear  
26 plaintiffs in a minute, but is there any understanding  
27 about the willingness or ability of the National Center  
28 for Missing and Exploited Children to provide that

1 information to plaintiffs, for example, at trial if the  
2 Court had found that it was admissible evidence?

3 MS. SIMONSEN: I would -- I believe that the  
4 plaintiffs have looked into that question.

5 My understanding from what they've  
6 reported to us is that through other law enforcement  
7 agencies, it may be able to be obtained, but we have not  
8 ourselves investigated that question.

9 THE COURT: Okay. Let me hear from plaintiffs.

10 MR. CREED: For this issue, Your Honor, Chris  
11 Ayers who is on LACourtConnect has been taking the lead,  
12 so I'd defer to Mr. Ayers on the topic.

13 MR. AYERS: Good morning, your Honor.

14 This is Chris Ayers on behalf of the  
15 plaintiffs.

16 So the issue -- the issue with the CSAM  
17 generally is that, yes, the parties can continue to hold  
18 it indefinitely and must report it.

19 Defendants have the ability to report it  
20 to NCMEC which would -- which is a repository for it  
21 that only works with law enforcement, so the plaintiffs  
22 themselves and counsel do not have direct access to any  
23 of the actual CSAM that is submitted and disclosed by  
24 the defendants.

25 And so what the current dispute is really  
26 about is providing -- prior to the defendants' deletion  
27 of the CSAM images or video, the child pornography that  
28 they possess, before they delete it, that they provide

1 notice to us and also with key information surrounding  
2 the evidence that can be provided, such as what type of  
3 image it was, what the contents of it were, the  
4 information about the victim, information about the  
5 alleged abuser, so any information surrounding this, and  
6 that that information be provided to the plaintiff, and  
7 also that we would get realtime notice to the actual  
8 deletion of the CSAM so that we can work with law  
9 enforcement to make sure that all the evidence about the  
10 CSAM is preserved.

11 Because what we are talking about is,  
12 while it's lawful, the destruction of the key evidence  
13 that's going to be in this case, and so that's what the  
14 current dispute is about.

15 We understand that defendants do submit  
16 the CSAM to NCMEC, but from there, we don't have direct  
17 access to it with NCMEC.

18 We've had numerous calls with NCMEC  
19 personnel, and they indicated that they cannot by  
20 statute provide it because they're only this nonprofit,  
21 this lawful means of transitioning that to law  
22 enforcement. We do not have access to it there, and  
23 they cannot make it available to us there.

24 So the current dispute is about making  
25 sure that we have the plaintiffs' key information  
26 surrounding the actual CSAM that we have. That would be  
27 evidence that would be admissible and useful in this  
28 litigation.



1 THE COURT: Okay. So what do you want me to do  
2 about this issue?

3 MR. AYERS: I believe the parties are going to be  
4 briefing the issue, and so you'll be able to fully  
5 understand the parties' positions, and you have the  
6 current CSAM orders proposed now.

7 THE COURT: They have very little overlap, the  
8 proposed orders --

9 MS. SIMONSEN: And, Your Honor --

10 THE COURT: -- based on my -- based on my  
11 relatively quick review.

12 MS. SIMONSEN: If I may respond to points that  
13 Mr. Ayers made about plaintiffs' proposed preservation  
14 order?

15 What plaintiffs have proposed, having  
16 recognized that defendants cannot preserve actual CSAM,  
17 is that we actually have human reviewers I believe is  
18 their proposal or create some kind of new AI that can  
19 look at every single piece of CSAM that is being  
20 reported to NCMEC and create a summary of it, which  
21 would revictimize the victim of CSAM.

22 It would also run directly counter to the  
23 reporting statute which expressly lays out that the  
24 extent of viewing of the CSAM after it is detected and  
25 reported should be extremely limited, only for purposes  
26 of reporting.

27 It's also impracticable to do that.  
28 Defendants' reporting systems are largely programmatic.

1 They detect CSAM through -- through machine learning  
2 models -- I may be using the wrong terminology, but most  
3 of it is not done through human review of actual CSAM.

4 Furthermore, it's not linked to some  
5 separate set of accounts that may be determined to be  
6 relevant in this litigation such that we could either  
7 practicably give notice to plaintiffs when CSAM is  
8 reported in connection with a user account or determine  
9 whether this description of the CSAM has to be generated  
10 again.

11 The only way we can see that that would be  
12 done would be through some kind of human review  
13 revictimizing the victim, and so for those reasons, we  
14 don't think that either of those proposals --

15 THE COURT: Does federal criminal law preclude  
16 human review?

17 MS. SIMONSEN: No.

18 And there are instances where these  
19 defendants do human review, but what they're proposing,  
20 because of the way our system is set up, it would  
21 effectively require individuals to conduct a manual  
22 review of every single piece of CSAM in the millions --  
23 tens of millions of reports that these defendants make  
24 to NCMEC every year, the vast majority of which will  
25 have nothing to do with this litigation, and it's not a  
26 part of what's required by federal law.

27 In fact, we would submit to Your Honor,  
28 again, that it runs counter to federal law.

1 THE COURT: This is litigation.

2 MS. SIMONSEN: Understood, Your Honor, but -- we  
3 are happy to brief this.

4 There is no litigation exception in the  
5 NCMEC reporting statute despite there being exceptions  
6 for other circumstances.

7 THE COURT: I understand.

8 You have to come to grips with the  
9 question of whether you want in a trial the plaintiffs  
10 to be able to stand up and tell the jury that through  
11 computer means, you destroyed the information that could  
12 show what they need to prove their case.

13 And I could read you -- I don't have it up  
14 here anymore, but the jury instruction on that is  
15 incredibly powerful about destroyed information, whether  
16 it's intentional or not.

17 We need to grapple with this issue in my  
18 opinion in order to protect both sides.

19 MS. SIMONSEN: Understood, Your Honor.

20 I think plaintiffs recognize that we can't  
21 preserve the CSAM, so I don't think that's evenly an  
22 issue of dispute anymore. We have to destroy the CSAM  
23 after we've reported it. It is then preserved by NCMEC.

24 I would submit, Your Honor, I don't even  
25 know how plaintiffs could ever admit this in evidence  
26 because it is contraband. It can't be possessed. It  
27 can't be shown again to an entire jury, which would  
28 revictimize --

1 THE COURT: Have you been to the criminal courts  
2 building?

3 MS. SIMONSEN: Well, in the context of criminal  
4 proceedings, there's an exception, and that is the  
5 exception that I mentioned to Your Honor in the NCMEC  
6 reporting statute for criminal proceedings.

7 These are not criminal proceedings.  
8 There's no exception.

9 THE COURT: So they shouldn't be able to prove  
10 their case if they have a plaintiff who was victimized  
11 by being asked to provide pictures of their private  
12 parts to somebody else? They shouldn't be able to prove  
13 their case?

14 MS. SIMONSEN: I'm not suggesting that they  
15 shouldn't be able to prove their case, Your Honor, but  
16 in this instance there are certain limitations on  
17 evidence that can be used to do that.

18 In this case, of course, to the extent  
19 that there is CSAM in any of these individual user's  
20 accounts, that is something that they could certainly  
21 describe if they were the ones who were the victims, as  
22 opposed to having, for instance, individuals -- that  
23 each of the defendants review tens of millions of pieces  
24 of CSAM revictimizing all of those victims in order to  
25 summarize it in a way that, again, I'm sure there would  
26 then be disputes about whether we adequately summarized  
27 it.

28 In the meantime, we do have these NCMEC

1 reports which, for instance, you know, I think I  
2 would -- we would want to submit this information with  
3 our briefing to the extent that it is highly  
4 confidential information --

5 THE COURT: But the reports can't be linked to  
6 any individual plaintiff.

7 MS. SIMONSEN: Oh, they can because -- and that's  
8 what we can submit more information to Your Honor about,  
9 and this is what I was getting to with this idea of the  
10 broader preservation order covering -- this is  
11 information about these NCMEC reports and the CSAM that  
12 the defendants do maintain and do preserve beyond the  
13 actual CSAM itself, and we're in the process of  
14 discussing with plaintiffs exactly what that information  
15 is.

16 And so it would include, you know,  
17 information I believe about the victim and the  
18 perpetrator. I mean, I would want to confirm that, and  
19 we'd want to submit that to Your Honor.

20 But in addition, there is a way that each  
21 defendant is able to confirm -- if we have, for  
22 instance, say a list of relevant accounts in this  
23 litigation, plaintiff accounts, there's a way to confirm  
24 whether for any particular account there was a NCMEC  
25 report that was made in connection with CSAM that may  
26 have been associated with that account.

27 THE COURT: So you can associate with them with  
28 an individual?

1 MS. SIMONSEN: We can associate NCMEC reports  
2 with an individual, that's right, Your Honor.

3 And so, you know --

4 THE COURT: Even though this AI machine is doing  
5 it, you can associate it with the report?

6 MS. SIMONSEN: Oh, absolutely.

7 What we can't do, Your Honor, is -- and  
8 don't do and we believe would violate the statute is  
9 have an individual human look at the CSAM and summarize  
10 it and describe it before it gets reported to NCMEC,  
11 which is what plaintiff is proposing that we do.

12 And if --

13 THE COURT: All right. Mr. Ayers?

14 MR. AYERS: Yes.

15 What defendants are talking about isn't  
16 actually what the plaintiffs' proposal contemplates.

17 What the plaintiffs' proposal contemplates  
18 is to make sure, because of CSAM in certain context  
19 would have to be deleted following its reporting to law  
20 enforcement or NCMEC, ask them to preserve it past the  
21 90 days.

22 We ask that they make sure that they  
23 preserve prior to deletion and also provide to the  
24 plaintiffs key information, and those are spelled out,  
25 and they also -- those are spelled out not only just  
26 talking about the suspected CSAM itself but talking  
27 about the source of CSAM, suspected offender and victim,  
28 and other identifying information and other additional

1 information.

2 CSAM is admissible in court, and what  
3 happens in the context of using it in court, both civil  
4 and criminal, is that the CSAM images would need to be  
5 redacted, and those would be court personnel.

6 And so if we're talking about admitting,  
7 the Court would need to take acceptance of CSAM images  
8 from law enforcement and then conduct its own redaction  
9 of that for its admissibility.

10 It's obviously a heavy burden on the court  
11 providing such descriptions of the CSAM itself. It may  
12 alleviate some of those burdens and also have information  
13 related to the suspected CSAM that plaintiffs would have  
14 and not have to use law enforcement resources in order  
15 to potentially try to get -- get access to the CSAM from  
16 NCMEC.

17 There are resources for that. Nothing  
18 about providing a description of the CSAM images  
19 themselves would violate anything within the federal  
20 rules, federal law whatsoever, so that's just not  
21 accurate.

22 There are potential ways to provide  
23 descriptive features of these videos. Part of the  
24 description we ask for is including whether it's a video  
25 or image, the number of files, any distinctive features  
26 of the material included in any of their available  
27 metadata. So there are ways to go about this and do it  
28 to make sure that this information is preserved about

1 the CSAM.

2           The preservation order itself that we're  
3 discussing does not tackle this issue directly. What  
4 we're talking about is contraband that the defendants  
5 will not be preserving, will be deleted, and so in the  
6 context of the deletion of evidence, we want to make  
7 sure as plaintiffs that we're able to get all the  
8 details around that deleted.

9           Just as if there was an inadvertent  
10 spoliation issue, they would -- defendants would be  
11 required to describe what evidence was actually -- what  
12 evidence was destroyed, what evidence was lost so that  
13 plaintiffs would have those disclosures.

14           It's commonplace in litigation where  
15 evidence is lost or destroyed, whether lawfully or  
16 otherwise, to provide a description of that information.

17           And what plaintiffs provided in their  
18 order -- in their proposed order is a statutory history,  
19 a little background to explain how the federal law works  
20 in connection with the reporting of CSAM as well as the  
21 preservation of it.

22           And so we believe that the reporting to  
23 NCMEC is a way for the defendants to make sure that this  
24 information is preserved.

25           That said, if there's another means that  
26 defendants would prefer to provide plaintiffs with this  
27 valuable information about the CSAM, we can further  
28 discuss it, but, nonetheless, the plaintiffs have a



1 right to this information about it to make sure we  
2 understand information about the victim itself, about  
3 the abuser, and about the CSAM.

4 MS. SIMONSEN: Your Honor, with the exception of  
5 the description of the CSAM, which I don't really know  
6 what Mr. Ayers means by that, I think we can continue to  
7 meet and confer as we have been to share with him  
8 information about the CSAM that we do preserve, which  
9 some of those items he just mentioned we do preserve,  
10 and we told him that, and we told him that we'll commit  
11 in the preservation order that we're negotiating to  
12 preserve that information in connection with our other  
13 preservation efforts.

14 If Your Honor would prefer, we can go  
15 ahead and put that into a preservation order that would  
16 be entered separately for purposes of CSAM, but I think  
17 further conferral on the description of the CSAM is  
18 probably going to be the nub of the issue.

19 I'll also note, Your Honor, that if  
20 Mr. Ayers is aware of a way in civil proceedings through  
21 law enforcement to admit CSAM, then it's unclear to me  
22 why he wouldn't pursue that route to the extent that  
23 plaintiffs want to introduce this in evidence at trial.

24 I'm not aware that that's permissible, but  
25 to me that seems to be the solution rather than having  
26 defendants create summaries of CSAM, which as I've  
27 described is impracticable.

28 But I do think, Your Honor, additional

1 briefing on this may be the most helpful for Your Honor,  
2 and the parties have proposed submitting something by  
3 May 26th for Your Honor's consideration if that would be  
4 acceptable.

5 THE COURT: So that's fine.

6 I think it probably -- so let me ask  
7 Mr. Ayers.

8 You want to continued to see how close you  
9 can get on this? That would be helpful.

10 MR. AYERS: I think if the parties -- the parties  
11 can continue to meet and confer to see if we can come to  
12 a closer agreement.

13 I will say just quickly in response, you  
14 know, CSAM -- while CSAM has been admitted and is  
15 admissible, there's significant burdens to it, as well  
16 as the access to the CSAM images by plaintiffs counsel,  
17 as well as the victims themselves.

18 Since NCMEC can't -- we can't get access  
19 through NCMEC itself, the defendants' proposal  
20 essentially is to say, "Hey, we're providing the CSAM to  
21 NCMEC which you can't get from NCMEC anyway, and this  
22 isn't admissible in court so tough."

23 And so we are looking for a mechanism to  
24 be able to provide that, use the information about that  
25 CSAM so that it would be usable and useful as evidence  
26 to the Court, as well as to plaintiff.

27 So we're happy to continue to meet and  
28 confer to see if we can find some more common ground.

1 THE COURT: Okay. That sounds fine.

2 So maybe what we should though -- I think  
3 you were proposing simultaneous briefing on what you  
4 were unable to agree with.

5 I think it's probably better for  
6 plaintiffs to bring a motion because if I'm ordering  
7 defendants to do something that is arguably contrary to  
8 federal law in order to meet the requirements of civil  
9 litigation, then it better be based on a noticed motion.  
10 Okay?

11 So let's do it this way. Get as close as  
12 you can, and then, Mr. Ayers, go ahead and file your  
13 motion by May -- by May 26th, and go ahead and submit a  
14 briefing schedule just on Case Anywhere, okay, or you  
15 could do, you know -- you could do it as a stip and  
16 proposed order.

17 Do it on Case Anywhere, and let me know  
18 and then request a hearing date that way. Okay?

19 Give me your briefing schedule and a  
20 hearing date. Okay?

21 All right. So that bring up filing  
22 proposed orders with the court.

23 So you had a proposed order regarding  
24 waiver of formal service, which is fine, but, you know,  
25 it's whatever Attachment 10 is to the joint report.

26 So we don't want the staff to have to take  
27 the joint report apart and get that out and then have to  
28 file it. So when you -- the way our electronic system

1 works is if it has the word "proposed order" in it or  
2 "stip and proposed order," it gets into the work queue,  
3 basically.

4 So file that as a -- as a proposed order  
5 or as a stipulation and proposed order letting me know  
6 that it's agreed to by the parties, and then that is  
7 easier to execute that way.

8 Did my staff have anything else, since  
9 we're talking about proposed orders, that you wanted to  
10 let counsel know about in terms of getting orders to us?

11 THE CLERK: I think that's the most important  
12 part, was that anything mentioned in a report and if  
13 it's proposed, it needs to come into the work digitally  
14 standing on its own so we can process it.

15 THE COURT: Okay. Good.

16 If you have questions, my staff is  
17 wonderful. You can call them, but don't abuse the  
18 privilege. Okay?

19 All right. Call and benefit order,  
20 turning to the plaintiffs, so I talked last time about  
21 the possibility of a consensual agreement among counsel.

22 Have you tried that and failed?

23 MS. JEFFCOTT: The problem we have with that is  
24 there's already an order entered in the MDL that would  
25 essentially hold back 10 percent of most, if not all, of  
26 the cases that are already filed in the JCCP and that  
27 will be filed in the future most likely.

28 And so in order to essentially prevent a

1 double holdback that we would be able to achieve, if we  
2 did a private agreement, we would need something more  
3 formal along the lines of we believe a parallel common  
4 benefit order filed in the litigation that would  
5 explicitly say that there isn't going to be a double  
6 holdback, that there wouldn't be a 10-percent holdback  
7 on cases that are subject to an MDL assessment, and also  
8 that would explain that there would be coordination  
9 between the MDL and the JCCP, and that there could be no  
10 duplicative work, and all of the elements of that we're  
11 trying to seek through coordination that's already  
12 ongoing in the litigation.

13 THE COURT: Can't you do that yourselves though?

14 Because you can agree to something --  
15 well, my position is that that ought to be the case for  
16 both federal and state court, but I don't have anything  
17 to do about federal court.

18 Why can't you take all of those things  
19 you've just said and agreed to them among yourselves,  
20 and then, you know, I can ask that you submit it to  
21 Judge Gonzalez Rogers and see if there is anything she  
22 believes in your agreement that would conflict with her  
23 orders?

24 MS. JEFFCOTT: We can certainly try that.

25 I think one concern we have is that as  
26 additional cases get filed into the JCCP, that we would  
27 have to essentially renegotiate or have those new -- new  
28 parties, new counsel entered into the agreement.

1 THE COURT: You'd have a provision for new  
2 counsel being added, and if you've got a free rider in  
3 the future, there are a lot of reasons why somebody  
4 coming in would not be a free rider, quite honestly, but  
5 maybe there would be a free rider. You could bring it  
6 to the court.

7 MS. JEFFCOTT: Your Honor, we'll work to --

8 THE COURT: Why don't you try to do that?

9 Let me -- sorry.

10 I know this may seem like wasted effort,  
11 why can't I just sign a piece of paper, but ultimately  
12 if I don't have authority to, I can't enforce it anyway,  
13 so -- whereas if you do it by agreement, you know, it's  
14 a contractual arrangement.

15 And so if you're not able to achieve that,  
16 you can come back and file a motion.

17 MS. JEFFCOTT: One question, Your Honor.

18 If we're able to achieve an agreement,  
19 will we be able to submit that as sort of a stipulation  
20 so that at least we've made a record of it?

21 THE COURT: Yes. You'll be able to make a record  
22 of it.

23 MS. JEFFCOTT: Thank you, Your Honor.

24 THE COURT: Yes. Definitely.

25 So if you can't achieve that, you can  
26 bring a motion.

27 I will want to know which counsel are not  
28 in agreement with going along with everyone else's

1 proposal, so to speak, and -- but then you'll have to  
2 brief the authority.

3           There are articles by Professor Charles  
4 Silver of the University of Texas, and I think he just  
5 posted one. I found it online on unjust enrichment  
6 theory. I think he's already written that there's no  
7 authority for common benefit fund theory, and maybe he's  
8 out there by himself on it.

9           I'm aware of the whole history of the  
10 complex litigation handbook on the federal side and that  
11 everyone does it, but there is that -- there are those  
12 arguments that Professor Silver makes, and moreover, and  
13 most importantly here, we'd have to address it under  
14 California law. We have to find a way under California  
15 law.

16           So -- and I just-- I'm not going to preach  
17 on it. I want to be helpful to all parties here, but  
18 for reasons I mentioned last time, it feels very uneven  
19 to me to be issuing orders to make sure that counsel on  
20 one side can get paid.

21           It just doesn't feel right, understanding  
22 however, that when you have multiple counsel, you've got  
23 to find some way of being fair to the people who are  
24 taking the laboring oar, who are the people sitting  
25 here.

26           MS. JEFFCOTT: I think what we're trying to  
27 establish is a mechanism so that we can raise funds to  
28 pursue the litigation and also at the back end make sure

1 that people are compensated for their expenses and time.

2 We appreciate the guidance you've  
3 provided. We'll work through this and report back if  
4 necessary.

5 THE COURT: Yeah, let me know.

6 I'm not totally foreclosing, but -- well,  
7 I've said what I've said, but try to work it out  
8 yourselves, and you may be establishing some new, you  
9 know, mechanisms for going forward.

10 As I'm sure everybody here knows, the  
11 Federal Rules Committee is considering -- the Civil  
12 Rules Committee sent to the Standing Committee rules  
13 about the MDL -- proposed rules by the MDL, and it does  
14 make mention of the common benefit fund there.

15 So if that's -- if those are approved,  
16 which works -- the rules committees work very slowly.

17 If that's approved, then people will point  
18 to that and say that's the authority for it, and maybe  
19 it is. We'll see what they do.

20 Okay. I am happy to add Mr. Kamamoto  
21 (phonetic) to the plaintiffs' steering committee, so if  
22 you'll just file a proposed order on that in that  
23 regard?

24 MS. JEFFCOTT: Yes, Your Honor.

25 THE COURT: Stip and proposed order.

26 With respect to the cases that you  
27 helpfully listed in the joint report, plus the one case  
28 that was mentioned in the Case Anywhere posting as one



1 you've recently agreed should be included in the JCCP,  
2 I've consulted with my clerk, and we think it's better  
3 that the clerk's minute order today just add those cases  
4 on.

5 And apparently there's a new code that  
6 will help the clerk get that organized in the court  
7 system, so let us try that, and then you don't have to  
8 submit a separate proposed order. Okay?

9 MS. JEFFCOTT: Thank you, Your Honor.

10 THE COURT: Good.

11 Then the final thing. This is not  
12 mentioned in the joint report, but I'm adding it on.

13 So I had requested a proposed order  
14 allowing plaintiffs to be named by their pseudonyms. I  
15 did not enter what was given to me, and I really wanted  
16 some more on that.

17 So the things that I need are, I think it  
18 should be limited to plaintiffs who are minors or  
19 plaintiffs who are not minors but who are alleging  
20 sexual abuse because I think those are pretty much  
21 automatic categories for listing people by pseudonyms.

22 And if you accept that limitation, then I  
23 think you can say that there is good cause, and if you  
24 didn't mind looking for a case about the issue of -- the  
25 minors I think is very clear, and the whole dependency  
26 system operates that way, but the issue about adults and  
27 sexual abuse, there's probably a case on that. If you  
28 can cite it, it would be great.

1 MS. JEFFCOTT: Thank you, Your Honor.

2 THE COURT: So resubmit that when you can.

3 So I'll set a next status conference, but  
4 before I do that, is there anything else?

5 MS. SIMONSEN: Your Honor, defendants just wanted  
6 to clarify.

7 I believe the plaintiffs had reported that  
8 there are 124 cases in the JCCP. We wanted you to be  
9 aware that that is actually a count by plaintiffs of the  
10 number of plaintiffs. By our count, there are actually  
11 61 cases in the JCCP.

12 Plaintiffs have begun filing  
13 multi-plaintiff complaints, and that is the reason why  
14 there is half the number of cases as there are  
15 plaintiffs.

16 THE COURT: Thank you. I appreciate that  
17 clarification.

18 Sixty-one cases, yeah, and that becomes  
19 what we live with in state court because we don't  
20 require them to be filed separately, although, trust me,  
21 the recordkeeping is much simpler if you can do them  
22 separately.

23 MS. SIMONSEN: And as we've stated in the waiver  
24 of service agreement, the defendants of course would  
25 reserve the right to take the position down the road, to  
26 the extent there are trials, that those should be  
27 individual trials and not --

28 THE COURT: Absolutely. Absolutely.

1 Let me ask plaintiffs.

2 It would be helpful if you would not mix  
3 plaintiffs from different states in one complaint. I'm  
4 not ordering you in that regard, but that would be  
5 helpful.

6 MS. JEFFCOTT: Okay. Your Honor, I'll pass that  
7 along.

8 THE COURT: Okay. Thank you.

9 Anything else?

10 MS. CLEOFE: Your Honor, Cherisse Cleofe on  
11 behalf of plaintiffs.

12 Just a point of clarification for the  
13 proposed order regarding formal service.

14 Did you need the parties to resubmit that  
15 proposed order, or is the proposed order from the joint  
16 report acceptable?

17 THE COURT: I need you to resubmit it.

18 MS. CLEOFE: Understood, Your Honor.

19 THE COURT: So we're not taking courtesy copies  
20 apart or printing out parts of Case Anywhere things and  
21 separating them.

22 Anything you want entered as an order  
23 should always be filed as a separate document or lodged  
24 as a separate document.

25 MS. CLEOFE: Understood, Your Honor. We'll  
26 resubmit that and the other one.

27 THE COURT: Okay. Appreciate that.

28 Okay. Thank you. Very good work on

1 everybody, and I know you had disagreements, but I think  
2 it will get easier as we go along. Maybe it won't,  
3 but --

4 MR. ORENT: Your Honor, this is Jonathan Orent  
5 for plaintiffs.

6 We have one housekeeping that's come up,  
7 and I suspect others may have the same issue, and I  
8 wanted to raise it before the Court, which is we filed a  
9 stipulation of dismissal along with defendants in a  
10 particular case. This case is 22-CIV-03783.

11 The case was being refiled in the MDL, and  
12 the stipulation of dismissal was rejected by the court  
13 stating that we needed to prove essentially it was a  
14 settlement and that the settlement met the needs of the  
15 minor child, and I just wanted to raise this issue  
16 because this was an instance where we were immediately  
17 refiled in the MDL and wanted to really flag it for the  
18 Court and understand how the Court wanted those types of  
19 issues handled.

20 THE COURT: Minor's compromises will at some  
21 point, if these cases are resolved, consensually be a  
22 big issue, no question about it, but I take your point  
23 that this is just being refiled.

24 Ms. Miro, can you shed any light on this?

25 THE COURTROOM ASSISTANT: Yeah, it actually came  
26 through as a request for dismissal, and I explained to  
27 them that we couldn't dismiss a minor.

28 THE COURT: Okay. So here's what I'd like you to

1 do.

2 I would -- and my staff is correct about  
3 that, but I take your point that you're refileing in  
4 federal court, and I think there is a difference.

5 So why don't you file a document called  
6 Request for Dismissal and Proposed Order, okay, and  
7 explain the circumstances, and that way I can sign it.

8 I can approve the deviation from the --  
9 what would be the ordinary rule if -- but I'll probably  
10 need a declaration stating it's going to be refiled.

11 Does that make sense?

12 MR. ORENT: Absolutely, Your Honor. Thank you  
13 for the clarification.

14 THE COURT: Sorry for the extra work, but we're  
15 serious about our minors' compromises. Okay?

16 Anything else?

17 All right. We can set a further status  
18 conference. Do you have any suggestions?

19 And thank you, by the way, for being --  
20 going along with us and moving this one.

21 I had planned I was going to be in trial.  
22 My case settled, but I was going to do this and then  
23 proceed into my trial, which is why I moved it to the  
24 morning, but the trial is on its way for now.

25 Any suggestions on how long we should wait  
26 before the next -- is there anything in federal court we  
27 should link it to?

28 MS. SIMONSEN: Your Honor, I think at least from

1 the defense side, and I welcome other defendants' views,  
2 that given these upcoming briefing that we'll be doing  
3 on various issues, I think that would probably serve to  
4 address the most immediate issues that we're currently  
5 working through.

6 I think that probably setting a status  
7 conference -- we may not need another one until  
8 potentially after the demurrers are resolved or maybe we  
9 come back to the court --

10 THE COURT: No. You're going to have more before  
11 the demurrers are resolved. I'm going to make sure  
12 these things are moving forward, and we have the August  
13 filing dates and all these things.

14 But if -- Plaintiffs?

15 MS. JEFFCOTT: Your Honor, I think not  
16 surprisingly we find these conferences very helpful.  
17 They keep us moving forward and at a pace I think that  
18 is particularly beneficial to plaintiffs.

19 And so, you know, a month, six weeks,  
20 that's something we would envision as being the next  
21 conference so that we can keep trucking along.

22 THE COURT: Okay. Let me just look at my notes a  
23 minute.

24 We may be able to -- we would set it maybe  
25 at the same time as we're having a hearing on the CSAM  
26 preservation order. Right?

27 MS. SIMONSEN: That makes good sense, Your Honor.

28 THE COURT: But we don't know when that's going

1 to be or indeed if we need it, so here's what I'll do.

2 I'll set for -- let's see. Did I already  
3 set a June 1 appearance I think? Is that the date I set  
4 the nonappearance?

5 THE CLERK: Yes.

6 THE COURT: So June 1, that nonappearance case  
7 will also be re setting further status conference.  
8 Okay?

9 So I'll set it consistent with the hearing  
10 date on the CSAM motion, and then if there's some other  
11 motion that has to come up in that time with that.

12 MS. SIMONSEN: Thank you, Your Honor.

13 THE COURT: So that would be the next date.

14 Plaintiffs' liaison counsel will give  
15 notice. We will get out a minute order that you can  
16 use.

17 MS. CLEOFE: Thank you, Your Honor.

18 THE COURT: Anything?

19 MS. SIMONSEN: Nothing from the defense.

20 THE COURT: Very good. Thank you very much.

21  
22 (The proceedings were concluded.)

23 - 000 -  
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SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC 12

HON. CAROLYN B. KUHL, JUDGE

SOCIAL MEDIA CASES,

)

) CASE NO. JCCP5255

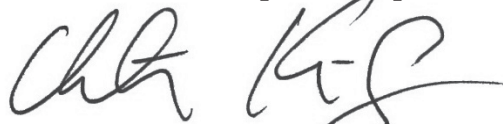
)

) REPORTER'S

) CERTIFICATE

I, Christine Kwon-Chang, official pro tempore court reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that I did correctly report the proceedings contained herein and that the foregoing pages comprise a full, true and correct transcript of the proceedings taken in the matter of the above-entitled cause on May 3, 2023.

Dated this 4th day of May, 2023.



Christine Kwon-Chang, CSR No. 12143, CRR  
Official Pro Tempore Reporter



SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: 1..aiming

<hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>1</b> 28:1 30:4,27 31:1 35:12 63:3,6</p> <p><b>10</b> 51:25 52:25</p> <p><b>10-percent</b> 53:6</p> <p><b>100</b> 22:21</p> <p><b>12</b> 1:4</p> <p><b>12143</b> 1:5</p> <p><b>124</b> 58:8</p> <p><b>14</b> 17:20 18:1 20:17 21:8 22:22</p> <p><b>16</b> 10:27</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b> 17:17</p> <p><b>2.550</b> 12:1 13:2,10,14,20 14:3,7, 11,17</p> <p><b>20-page</b> 30:18</p> <p><b>2000</b> 4:1</p> <p><b>2023</b> 1:3</p> <p><b>22-CIV-03783</b> 60:10</p> <p><b>230</b> 20:25</p> <p><b>26th</b> 33:26 35:7,11 50:3 51:13</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>3</b> 1:3</p> <p><b>30</b> 11:22,25 12:18,24 17:26 18:27 21:9,20</p> <p><b>300-page</b> 21:9</p> <p><b>30th</b> 19:6</p> <p><b>31</b> 18:28</p> <p><b>31st</b> 19:6</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4</b> 31:11,12,22</p> <hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p><b>5</b> 20:17</p>	<hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p><b>61</b> 58:11</p> <hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p><b>7</b> 13:27</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>88-page</b> 30:13</p> <hr/> <p style="text-align: center;"><b>9</b></p> <hr/> <p><b>90</b> 46:21</p> <hr/> <p style="text-align: center;"><b>A</b></p> <hr/> <p><b>A.M.</b> 1:6</p> <p><b>ability</b> 31:7 38:27 39:19</p> <p><b>absent</b> 5:5,8 6:19</p> <p><b>absolutely</b> 46:6 58:28 61:12</p> <p><b>abuse</b> 52:17 57:20,27</p> <p><b>abuser</b> 40:5 49:3</p> <p><b>accept</b> 57:22</p> <p><b>acceptable</b> 10:2 50:4 59:16</p> <p><b>acceptance</b> 47:7</p> <p><b>access</b> 14:27 15:1 29:7,8 32:4, 22,26 39:22 40:17,22 47:15 50:16,18</p> <p><b>account</b> 14:16 37:12,22,23 42:8 45:24,26</p> <p><b>accounts</b> 32:5,17 33:18,19 34:28 37:23 42:5 44:20 45:22,23</p> <p><b>accurate</b> 47:21</p> <p><b>achieve</b> 53:1 54:15,18,25</p> <p><b>action</b> 5:11 8:28</p> <p><b>actual</b> 9:4 19:15 36:8,11,27 37:3, 8,12 38:18 39:23 40:7,26 41:16 42:3 45:13</p> <p><b>add</b> 56:20 57:3</p> <p><b>added</b> 54:2</p>	<p><b>adding</b> 57:12</p> <p><b>addition</b> 45:20</p> <p><b>additional</b> 5:2 12:2 23:20 46:28 49:28 53:26</p> <p><b>address</b> 7:20 9:3 21:7 23:11 24:11 36:28 55:13 62:4</p> <p><b>addressed</b> 36:25</p> <p><b>addressing</b> 3:17 14:19</p> <p><b>adds</b> 22:18</p> <p><b>adequately</b> 26:22 44:26</p> <p><b>adjudicated</b> 16:26</p> <p><b>adjusting</b> 7:16</p> <p><b>adjustments</b> 14:16</p> <p><b>admissibility</b> 47:9</p> <p><b>admissible</b> 39:2 40:27 47:2 50:15,22</p> <p><b>admit</b> 43:25 49:21</p> <p><b>admitted</b> 50:14</p> <p><b>admitting</b> 47:6</p> <p><b>adults</b> 57:26</p> <p><b>advance</b> 4:4 22:16</p> <p><b>advances</b> 22:10</p> <p><b>afoul</b> 16:27 36:9</p> <p><b>agencies</b> 39:7</p> <p><b>aggregator</b> 24:23,28 25:10,16 26:12</p> <p><b>agree</b> 6:12,19 8:16,18 10:25 17:9,10 19:26 20:4 25:4 27:25 35:18 51:4 53:14</p> <p><b>agreeable</b> 25:25</p> <p><b>agreed</b> 6:22,24 9:21,23 10:20 28:8 33:13,25 34:1 35:8,15 37:4 52:6 53:19 57:1</p> <p><b>agreement</b> 5:5 6:17 20:12 34:4 35:20,26 36:1,7 50:12 52:21 53:2, 22,28 54:13,18,28 58:24</p> <p><b>agrees</b> 4:16</p> <p><b>ahead</b> 15:6 35:15 49:15 51:12,13</p> <p><b>AI</b> 41:18 46:4</p> <p><b>aiming</b> 18:18</p>
---	---	---

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: aleve..calls

<b>aleve</b> 47:12 <b>allegations</b> 16:28 <b>alleged</b> 16:24 40:5 <b>alleging</b> 57:19 <b>Allen</b> 1:15 <b>allowing</b> 57:14 <b>Alphabet</b> 2:9,12 <b>alternative</b> 10:14 36:14 <b>alternatives</b> 36:10 <b>amending</b> 15:13 <b>Amendment</b> 20:25 <b>analysis</b> 22:27 23:1 <b>Andrea</b> 2:5 <b>ANGELES</b> 1:3 <b>animated</b> 36:23 <b>answers</b> 27:16 <b>anticipate</b> 14:26 19:24 23:15 24:27 <b>anticipated</b> 21:26 <b>anticipates</b> 7:17 <b>anticipation</b> 19:23 <b>anxious</b> 25:13 <b>anymore</b> 43:14,22 <b>anyplace</b> 7:24 <b>apparently</b> 57:5 <b>appearance</b> 16:2 63:3 <b>appearances</b> 1:7,13 3:2,3 <b>appellate</b> 10:6 <b>applicable</b> 6:24 <b>applies</b> 13:16 26:18 <b>apply</b> 11:20 13:17,18,19 <b>approach</b> 6:2,12 <b>approve</b> 61:8 <b>approved</b> 56:15,17 <b>approving</b> 19:24 <b>area</b> 36:1 <b>arguably</b> 12:8 51:7	<b>argued</b> 24:21 <b>argument</b> 17:13 <b>arguments</b> 20:22 21:16 55:12 <b>arise</b> 4:8 <b>arises</b> 12:20,23 <b>arrangement</b> 54:14 <b>articles</b> 55:3 <b>Ashley</b> 2:17 14:12 <b>assessment</b> 53:7 <b>ASSISTANT</b> 60:25 <b>associate</b> 45:27 46:1,5 <b>assuming</b> 19:1 <b>attach</b> 31:17 <b>attached</b> 7:9 35:24 <b>Attachment</b> 51:25 <b>August</b> 28:1 30:4,27 31:1,11,12, 22 62:12 <b>authority</b> 54:12 55:2,7 56:18 <b>automatic</b> 57:21 <b>avoid</b> 12:11,22 <b>aware</b> 49:20,24 55:9 58:9 <b>awareness</b> 9:26 <b>Ayers</b> 39:11,12,13,14 41:3,13 46:13,14 49:6,20 50:7,10 51:12 <hr/> <b>B</b> <hr/> <b>back</b> 4:1 6:7 15:26 28:7 30:18,27 52:25 54:16 55:28 56:3 62:9 <b>background</b> 48:19 <b>based</b> 10:5 19:22 24:9 41:10 51:9 <b>basically</b> 10:27 52:3 <b>basis</b> 14:20 <b>bears</b> 14:20 <b>Beasley</b> 1:15 <b>begun</b> 58:12 <b>behalf</b> 2:3 5:13 39:14 59:11 <b>believes</b> 53:22	<b>beneficial</b> 62:18 <b>benefit</b> 52:19 53:4 55:7 56:14 <b>Bergman</b> 1:24,25 <b>big</b> 20:20 21:14 60:22 <b>binding</b> 7:1 <b>bit</b> 14:23 <b>Blaschke</b> 2:13,14 5:12 <b>Blavin</b> 2:25,26 <b>board</b> 9:11 <b>Boyle</b> 1:19 <b>briefed</b> 8:8,10,16 9:17 11:10 20:26 <b>briefing</b> 8:22 9:2,11,14,23 11:15, 16 14:25 19:19 20:3 32:10 34:6,7 41:4 45:3 50:1 51:3,14,19 62:2 <b>briefly</b> 20:8 <b>briefs</b> 9:19 10:21 18:15,19,20 21:1 <b>bring</b> 9:9 15:26 21:24 26:28 33:8 51:6,21 54:5,26 <b>broader</b> 38:1 45:10 <b>brought</b> 36:2 <b>building</b> 44:2 <b>burden</b> 12:9,12,22 13:3 14:7,20 47:10 <b>burdens</b> 47:12 50:15 <b>burdensome</b> 12:1 13:10 <b>burdensomeness</b> 12:6 <b>Burling</b> 2:17 <b>Byte</b> 2:6,15,24 <hr/> <b>C</b> <hr/> <b>calendar</b> 17:25 24:10 <b>California</b> 1:3 7:23 8:3 10:5,15 12:1 13:2,8,10,11 15:14 23:3,16 55:14 <b>call</b> 31:9 52:17,19 <b>called</b> 24:14 61:5 <b>calls</b> 40:18
---	---	---

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: careful..contents

<b>careful</b> 16:26 <b>CAROLYN</b> 1:4 <b>case</b> 1:1,2 4:11,18,27 8:3 13:12 15:9 22:24,25 25:6 26:2,9 27:3,4 31:10 34:24 35:12 40:13 43:12 44:10,13,15,18 51:14,17 53:15 56:27,28 57:24,27 59:20 60:10,11 61:22 63:6 <b>cases</b> 1:2,13 7:25 20:20 37:19 38:4 52:26 53:7,26 56:26 57:3 58:8,11,14,18 60:21 <b>categories</b> 32:3 57:21 <b>CBS</b> 13:12 <b>Center</b> 1:26 38:7,27 <b>cetera</b> 31:17 <b>challenging</b> 20:27 <b>chance</b> 34:6 <b>change</b> 13:20 37:7 <b>charged</b> 38:10 <b>Charles</b> 55:3 <b>check-in</b> 28:6 <b>Cherisse</b> 1:17 59:10 <b>child</b> 39:27 60:15 <b>Children</b> 38:8,28 <b>Chiou</b> 2:7,8 <b>choice</b> 21:27,28 22:5,19,24 23:6 <b>Chris</b> 39:10,14 <b>CHRISTINE</b> 1:5 <b>Christopher</b> 2:8 <b>circumstances</b> 10:24 43:6 61:7 <b>cite</b> 20:20 57:28 <b>civil</b> 16:13 47:3 49:20 51:8 56:11 <b>claim</b> 23:4 27:1 <b>claim-by-claim</b> 23:1 <b>claims</b> 20:16,17,24 21:8 22:22 23:9,20 <b>clarification</b> 23:26 58:17 59:12 61:13 <b>clarify</b> 58:6 <b>clear</b> 14:14 23:27 57:25	<b>Cleofe</b> 1:16,17 59:10,18,25 63:17 <b>clerk</b> 3:1 16:6 52:11 57:2,6 63:5 <b>clerk's</b> 57:3 <b>clients</b> 27:12 <b>close</b> 17:26 50:8 51:11 <b>closer</b> 50:12 <b>code</b> 15:15,16 57:5 <b>comment</b> 28:2 31:4 <b>comments</b> 5:14 6:1,6 7:16 <b>commit</b> 23:18 49:10 <b>committee</b> 16:14 56:11,12,21 <b>committees</b> 56:16 <b>common</b> 50:28 53:3 55:7 56:14 <b>commonplace</b> 48:14 <b>commonsense</b> 6:4 <b>communication</b> 4:11,13 <b>companies</b> 25:28 <b>companion</b> 18:19 <b>compel</b> 29:16 <b>compensated</b> 56:1 <b>competing</b> 9:1 17:8,14 28:1 31:2 33:25 35:8 <b>complaint</b> 16:17,28 17:19 21:9, 16 23:3 59:3 <b>complaints</b> 16:24 17:18 58:13 <b>complete</b> 29:8 32:26 33:27 34:2 <b>completed</b> 35:10 <b>completing</b> 28:25 <b>complex</b> 4:2,6 55:10 <b>complexity</b> 20:24 <b>complicated</b> 16:25 22:20 <b>complication</b> 36:4 <b>comply</b> 15:13 <b>compromises</b> 60:20 61:15 <b>computer</b> 43:11 <b>concepts</b> 6:20 <b>concern</b> 22:10 53:25	<b>concerns</b> 36:23,25,28 37:1 <b>concluded</b> 63:22 <b>conclusion</b> 14:24 <b>concrete</b> 4:8 <b>conditionally</b> 12:4 14:5 <b>conduct</b> 42:21 47:8 <b>conducted</b> 4:5 <b>conducting</b> 8:2 <b>confer</b> 5:4 8:25 49:7 50:11,28 <b>conference</b> 5:6,7 9:10,16 11:5,9, 12 29:2,15 31:24,25,26 34:5 35:14 58:3 61:18 62:7,21 63:7 <b>conferences</b> 34:8 62:16 <b>conferral</b> 49:17 <b>conferred</b> 28:4 36:6 <b>conferring</b> 37:5 <b>confident</b> 4:10,12 <b>confidential</b> 7:28 11:23,25,26 12:8,14,15 15:21 45:4 <b>confidentiality</b> 15:20 <b>confirm</b> 45:18,21,23 <b>conflict</b> 53:22 <b>confront</b> 27:15 <b>Congress</b> 38:11 <b>connection</b> 5:26 29:3 37:5 42:8 45:25 48:20 49:12 <b>consensual</b> 52:21 <b>consensually</b> 60:21 <b>consideration</b> 50:3 <b>considerations</b> 17:14 <b>considered</b> 16:28 <b>consist</b> 6:20 <b>consistent</b> 14:3 29:19 63:9 <b>consulted</b> 57:2 <b>contemplated</b> 8:27 29:14 <b>contemplates</b> 46:16,17 <b>contemplating</b> 30:12 <b>contents</b> 40:3
--	---	--

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: context..depending

<b>context</b> 9:4 37:28 44:3 46:18 47:3 48:6 <b>continue</b> 28:27 39:17 49:6 50:11,27 <b>continued</b> 50:8 <b>continuing</b> 29:28 <b>contraband</b> 36:5 43:26 48:4 <b>contractual</b> 54:14 <b>contrary</b> 51:7 <b>controlling</b> 22:28 <b>converse</b> 7:3 <b>coordinate</b> 3:13 <b>coordinated</b> 3:24 4:23 <b>coordinating</b> 20:28 <b>coordination</b> 3:13 5:16 18:17 53:8,11 <b>copies</b> 59:19 <b>correct</b> 24:4 25:11 61:2 <b>correctly</b> 25:12 35:27 <b>correspond</b> 30:21 <b>Council</b> 13:24 16:14 <b>counsel</b> 5:10 6:9,16 7:21 8:11,13 25:8 26:17 27:24,26 30:25 39:22 50:16 52:10,21 53:28 54:2,27 55:19,22 63:14 <b>count</b> 19:4 58:9,10 <b>counter</b> 41:22 42:28 <b>counting</b> 19:5 <b>country</b> 7:25 <b>couple</b> 3:10 30:19 <b>court</b> 1:10,12,27 2:28 3:7,23 4:20,26 5:1,9,11 6:9,26 7:5,19 8:8,24 9:6,16,18 10:7,15,16,18,27 11:8,22 12:1 13:1,2,4,8,9,10,13, 26,28 15:16 16:6,12 17:21,25,28 18:25 19:1,2,3,9,20 20:10 21:18 22:23,24,25 23:23 24:4 25:3 26:3, 15 27:22 28:14,26 29:28 30:15,23 31:3 32:11,28 33:3 34:20 35:4,18, 22 38:5,9,12,15,22 39:2,9 41:1,7, 10 42:15 43:1,7 44:1,9 45:5,27 46:4,13 47:2,3,5,7,10 50:5,22,26 51:1,22 52:15 53:13,16,17 54:1,6, 	8,21,24 56:5,25 57:6,10 58:2,16, 19,28 59:8,17,19,27 60:8,12,18, 20,28 61:4,14,26 62:9,10,22,28 63:6,13,18,20 <b>Court's</b> 5:14 6:12 13:11 24:2 28:2 31:4 <b>courtesy</b> 59:19 <b>courtroom</b> 1:14,28 3:3 60:25 <b>courts</b> 3:24 4:2 10:6 16:5 44:1 <b>cover</b> 31:15 32:13 37:17 <b>covered</b> 19:23 <b>covering</b> 45:10 <b>Covington</b> 2:17,20 <b>create</b> 10:17 41:18,20 49:26 <b>creates</b> 22:9 <b>creating</b> 4:3 <b>credibility</b> 13:7 <b>Creed</b> 1:19 6:10 7:4 8:14 10:4,23 12:26,28 23:26 24:27 26:10 28:10,18 30:13,16 33:1 34:14,25 35:20 38:10 39:10 <b>criminal</b> 36:9 42:15 44:1,3,6,7 47:4 <b>Critically</b> 14:1 <b>CSAM</b> 35:23 36:5,8,11,14,19,21, 27 37:3,5,8,12,14 38:3,18 39:16, 23,27 40:8,10,16,26 41:6,16,19, 21,24 42:1,3,7,9,22 43:21,22 44:19,24 45:11,13,25 46:9,18,26, 27 47:2,4,7,11,13,15,18 48:1,20, 27 49:3,5,8,16,17,21,26 50:14,16, 20,25 62:25 63:10 <b>CSR</b> 1:5 <b>current</b> 19:23 39:25 40:14,24 41:6 <hr/> <b>D</b> <hr/> <b>Dance</b> 2:6,15,24 <b>data</b> 24:23,27 25:10,16 26:12 29:4,7,17,23 32:1,3,7 <b>date</b> 19:10,14 24:9 51:18,20 63:3, 10,13 <b>dates</b> 19:15 24:6,10 62:13 	<b>day</b> 16:19,20 19:6 35:13 <b>days</b> 10:27 11:22,25 12:10,12,18, 24 15:2,23 18:28 31:24 46:21 <b>deadline</b> 11:26 16:9,17 34:1 35:22 <b>deal</b> 12:21 <b>dealing</b> 10:8 <b>dealt</b> 10:14 <b>decide</b> 17:27 19:9 <b>decided</b> 19:14 23:13 <b>decision</b> 13:11 17:21,28 19:2,3 <b>decisions</b> 4:8 <b>declaration</b> 61:10 <b>defend</b> 15:11 <b>defendant</b> 2:3 5:2 6:16 18:19,22 21:8 26:18 31:6 36:17 45:21 <b>defendant's</b> 27:14 <b>defendants</b> 2:18,21 3:22 5:1,9, 13 8:17,20 10:10,13 14:13 17:22 18:4 25:25 26:21 28:20,23 29:5 32:4 33:17,20,21 36:8,22,28 37:13,18 38:2 39:19,24 40:15 41:16 42:19,23 44:23 45:12 46:15 48:4,10,23,26 49:26 51:7 58:5,24 60:9 <b>defendants'</b> 31:16 36:20,26 39:26 41:28 50:19 62:1 <b>defense</b> 1:27 20:22,28 21:3 23:21 27:11 62:1 63:19 <b>defer</b> 39:12 <b>Degtyareva</b> 2:1,2 <b>delete</b> 39:28 <b>deleted</b> 46:19 48:5,8 <b>deletion</b> 39:26 40:8 46:23 48:6 <b>demurrer</b> 17:1,7 23:14,22 32:19, 20 <b>demurrers</b> 16:25 17:20,23 18:2 19:21 24:21 29:18 62:8,11 <b>DEPARTMENT</b> 1:4 <b>dependency</b> 57:25 <b>depending</b> 4:19 8:7 
---	--	--

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: deposition..essentially

<b>deposition</b> 11:23,24 12:3,13 27:15 <b>depositions</b> 27:5 <b>describe</b> 44:21 46:10 48:11 <b>description</b> 42:9 47:18,24 48:16 49:5,17 <b>descriptions</b> 47:11 <b>descriptive</b> 47:23 <b>designate</b> 11:22,26 12:13 <b>designating</b> 15:4 <b>destroy</b> 43:22 <b>destroyed</b> 36:15 43:11,15 48:12, 15 <b>destruction</b> 40:12 <b>detail</b> 27:1 <b>details</b> 48:8 <b>detect</b> 42:1 <b>detected</b> 41:24 <b>determine</b> 11:11 42:8 <b>determined</b> 24:28 42:5 <b>deviation</b> 61:8 <b>dictate</b> 5:25 <b>difference</b> 61:4 <b>differences</b> 23:10 <b>difficult</b> 26:21,23 <b>digit</b> 22:13 <b>digitally</b> 52:13 <b>direct</b> 39:22 40:16 <b>directly</b> 41:22 48:3 <b>disagree</b> 20:5 33:1 <b>disagreements</b> 60:1 <b>discern</b> 32:15 <b>disclosed</b> 8:5 39:23 <b>disclosure</b> 8:21 9:13 <b>disclosures</b> 7:22 48:13 <b>discovery</b> 3:14,23 4:22,23,26,27 5:7 6:23 11:5 13:18 24:14 25:14 29:19 33:5	<b>discovery's</b> 24:14 <b>discretion</b> 36:26 <b>discrimination</b> 23:4 <b>discuss</b> 9:16 11:2 26:11,12 29:28 48:28 <b>discussing</b> 5:17 36:13 45:14 48:3 <b>discussion</b> 3:12,16 28:11 29:26 <b>discussions</b> 17:10 <b>dismiss</b> 26:25 27:1 60:27 <b>dismissal</b> 60:9,12,26 61:6 <b>dispute</b> 39:25 40:14,24 43:22 <b>disputed</b> 7:15 <b>disputes</b> 9:3 13:18 44:26 <b>distinctive</b> 47:25 <b>District</b> 7:23 <b>do-overs</b> 16:8 <b>document</b> 28:12,16,19,22 29:10 30:20 31:3 33:22 59:23,24 61:5 <b>documents</b> 14:4 28:24 29:10 30:7 31:6 32:12 <b>Donahue</b> 2:11 <b>DONOHUE</b> 2:10 <b>double</b> 22:13 53:1,5 <b>doubt</b> 22:1 <b>downsides</b> 4:5 <b>draft</b> 5:16 7:14 8:17 21:11,18 23:2 <b>Drinker</b> 2:5,23 <b>duplicates</b> 4:27 <b>duplicative</b> 53:10	<b>effect</b> 7:1 <b>effectively</b> 38:11 42:21 <b>effort</b> 54:10 <b>efforts</b> 17:9 49:13 <b>elaborate</b> 4:3 5:28 6:3 <b>electronic</b> 24:25 25:10 31:13 51:28 <b>electronically</b> 24:26 <b>elements</b> 53:10 <b>eliminated</b> 28:4 <b>else's</b> 54:28 <b>embedded</b> 5:16 <b>Emily</b> 1:18 25:21 <b>Emmel</b> 1:15 <b>encourage</b> 25:3 <b>end</b> 25:26,27 26:2,8 55:28 <b>enforce</b> 26:22 54:12 <b>enforcement</b> 39:6,21 40:9,22 46:20 47:8,14 49:21 <b>engaged</b> 6:7 <b>enjoy</b> 13:4 <b>enjoys</b> 13:3 <b>enrichment</b> 55:5 <b>ensure</b> 36:14 <b>ensuring</b> 29:6 <b>enter</b> 3:23 5:2,23,24 14:15 57:15 <b>entered</b> 7:13 9:12 49:16 52:24 53:28 59:22 <b>entering</b> 24:25 <b>enters</b> 8:24 <b>entire</b> 11:24 43:27 <b>entirety</b> 23:17 <b>entity</b> 24:24 25:24 <b>envision</b> 62:20 <b>envisioning</b> 31:14 <b>ephemeral</b> 34:28 <b>essentially</b> 20:19 22:26 24:9 50:20 52:25,28 53:27 60:13
--	--	---

---

**E**


---

**earlier** 21:4,10 33:10 35:19  
**early** 8:21 25:5 31:5  
**easier** 14:23 16:15 52:7 60:2  
**edit** 28:21  
**edited** 30:20

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: establish..good

<p><b>establish</b> 55:27</p> <p><b>establishing</b> 14:20 56:8</p> <p><b>evaluate</b> 27:3</p> <p><b>evaluation</b> 33:22</p> <p><b>evenly</b> 43:21</p> <p><b>everybody's</b> 10:20 12:16</p> <p><b>evidence</b> 39:2 40:2,9,12,27 43:25 44:17 48:6,11,12,15 49:23 50:25</p> <p><b>excellent</b> 16:18</p> <p><b>exception</b> 13:19 43:4 44:4,5,8 49:4</p> <p><b>exceptions</b> 43:5</p> <p><b>execute</b> 52:7</p> <p><b>Exhibit</b> 13:27</p> <p><b>exhibits</b> 31:17</p> <p><b>expect</b> 18:23</p> <p><b>expectations</b> 18:25</p> <p><b>expedited</b> 13:22</p> <p><b>expenses</b> 56:1</p> <p><b>experience</b> 3:28 4:3 7:24 10:5,7 16:23 27:23</p> <p><b>experienced</b> 12:20</p> <p><b>experiences</b> 16:21</p> <p><b>expert</b> 7:21 8:5</p> <p><b>experts</b> 9:13,14</p> <p><b>explain</b> 32:6 48:19 53:8 61:7</p> <p><b>explained</b> 37:21 60:26</p> <p><b>explanation</b> 32:10</p> <p><b>explicitly</b> 53:5</p> <p><b>Exploited</b> 38:8,28</p> <p><b>expressed</b> 3:18</p> <p><b>expressly</b> 41:23</p> <p><b>extensive</b> 7:24</p> <p><b>extent</b> 23:21 37:7 41:24 44:18 45:3 49:22 58:26</p> <p><b>extra</b> 61:14</p> <p><b>extremely</b> 41:25</p>	<p style="text-align: center;"><b>F</b></p> <p><b>fact</b> 24:16 26:1,5,8,13 27:7,23 28:1,16,17,20,25 29:3,8,19,21,22, 25,27 30:2,11,14,18,21,24,26 31:3,7,16,27 32:27 33:5 37:12 42:27</p> <p><b>facts</b> 16:27 21:7</p> <p><b>Faegre</b> 2:5,23</p> <p><b>failed</b> 52:22</p> <p><b>fair</b> 55:23</p> <p><b>fall</b> 23:23</p> <p><b>falls</b> 19:6</p> <p><b>features</b> 47:23,25</p> <p><b>federal</b> 4:20 8:8 11:19 19:20 22:24,25 36:9 42:15,26,28 47:19, 20 48:19 51:8 53:16,17 55:10 56:11 61:4,26</p> <p><b>feed</b> 33:21</p> <p><b>feel</b> 3:5 4:10,12 18:8 55:21</p> <p><b>feels</b> 55:18</p> <p><b>figure</b> 24:24</p> <p><b>file</b> 5:9 12:4,15 15:24 17:22 18:3, 5 19:12 24:2 31:13 35:11 51:12, 28 52:4 54:16 56:22 61:5</p> <p><b>filed</b> 9:20,24 10:3 12:7,17 14:4,24 16:7 18:3,4 19:15 21:1 24:5 52:26,27 53:4,26 58:20 59:23 60:8</p> <p><b>files</b> 47:25</p> <p><b>filing</b> 15:9,18 19:7 24:6 31:13 51:21 58:12 62:13</p> <p><b>fill</b> 33:17</p> <p><b>filled</b> 26:28</p> <p><b>final</b> 7:19 57:11</p> <p><b>find</b> 50:28 55:14,23 62:16</p> <p><b>fine</b> 3:25 6:13,26 33:3 50:5 51:1, 24</p> <p><b>fixed</b> 26:13</p> <p><b>flag</b> 60:17</p> <p><b>focus</b> 25:15</p>	<p><b>follow</b> 13:25 14:11 15:15</p> <p><b>footnote</b> 20:20</p> <p><b>foreclosing</b> 56:6</p> <p><b>form</b> 10:2 15:6 17:18 33:9,13,15, 16,25 34:1,18 35:3,8</p> <p><b>formal</b> 51:24 53:3 59:13</p> <p><b>forms</b> 33:25,27 34:3 35:3,8,10</p> <p><b>forward</b> 9:7 11:16 16:18 25:14 56:9 62:12,17</p> <p><b>forward-looking</b> 5:28 12:19</p> <p><b>found</b> 4:6,7 39:2 55:5</p> <p><b>free</b> 3:5 54:2,4,5</p> <p><b>Friday</b> 29:9</p> <p><b>full</b> 38:6</p> <p><b>fully</b> 41:4</p> <p><b>fund</b> 55:7 56:14</p> <p><b>funds</b> 55:27</p> <p><b>future</b> 4:4,5 5:6 7:18 52:27 54:3</p> <p style="text-align: center;"><b>G</b></p> <p><b>general</b> 4:16</p> <p><b>generally</b> 39:17</p> <p><b>generated</b> 42:9</p> <p><b>Georgia</b> 22:14</p> <p><b>get all</b> 25:19 48:7</p> <p><b>give</b> 11:12,13 28:5 32:18 33:6,17 34:6 37:20 38:6 42:7 51:19 63:14</p> <p><b>giving</b> 34:26 35:1</p> <p><b>glad</b> 29:28</p> <p><b>global</b> 26:7</p> <p><b>goal</b> 34:26</p> <p><b>Gonzales</b> 19:14</p> <p><b>Gonzalez</b> 3:26 4:13 5:21 17:21 24:3 53:21</p> <p><b>good</b> 1:12,16,24,27 2:1,4,7,10, 13,16,19,22,25,28 4:10,12 7:5 16:13 18:26 24:12 28:28 36:16 37:16 39:13 52:15 57:10,23 59:28 62:27 63:20</p>
---	--	--



SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: Google..interface

<b>Google</b> 2:9,12 17:21 19:14 <b>govern</b> 4:4 <b>governing</b> 6:26 <b>grapple</b> 23:7 43:17 <b>great</b> 25:27 34:10 57:28 <b>greater</b> 12:9 15:1 <b>grips</b> 43:8 <b>ground</b> 50:28 <b>group</b> 20:22 21:3 <b>guess</b> 17:26 <b>guidance</b> 21:5,10 27:20 29:21 56:2 <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <b>half</b> 26:28 58:14 <b>hand</b> 30:3 <b>handbook</b> 55:10 <b>handle</b> 8:13 38:11 <b>handled</b> 60:19 <b>hang</b> 27:12 <b>happen</b> 29:17 <b>happening</b> 8:19 <b>happy</b> 11:2 43:3 50:27 56:20 <b>hard</b> 21:15 27:2 <b>hear</b> 5:10 15:14,28 16:1 38:25 39:9 <b>heard</b> 3:3 <b>hearing</b> 7:14,17 19:10,13 24:9 34:15 51:18,20 62:25 63:9 <b>heavy</b> 47:10 <b>held</b> 1:10 <b>helpful</b> 14:9 17:5,11 18:11 27:20 31:28 32:2,9,11 50:1,9 55:17 59:2,5 62:16 <b>helpfully</b> 56:27 <b>HERETOFORE</b> 1:7 <b>Hey</b> 50:20 <b>highly</b> 7:28 45:3	<b>history</b> 48:18 55:9 <b>hold</b> 7:14 39:17 52:25 <b>holdback</b> 53:1,6 <b>holes</b> 26:24,26 <b>HON</b> 1:4 <b>honestly</b> 54:4 <b>Honor</b> 1:16,22,24 2:1,4,7,10,13, 16,19,22,25 5:12,15,19 6:10 7:12 8:14,23,28 9:5,25 10:2,4 11:2,4,6, 21 12:27,28 14:12,15 15:8,12 18:13 20:8,14 21:25 22:1 23:13, 26 25:2,21,23 26:10 27:20 28:10 29:1,14,16,21 30:13 31:28 32:6, 10,21 34:16 35:17,28 36:2 37:10, 21 39:10,13 41:9 42:27 43:2,19, 24 44:5,15 45:8,19 46:2,7 49:4, 14,19,28 50:1 54:7,17,23 56:24 57:9 58:1,5 59:6,10,18,25 60:4 61:12,28 62:15,27 63:12,17 <b>Honor's</b> 36:24 37:1 50:3 <b>hope</b> 18:23 21:12 <b>housekeeping</b> 60:6 <b>huge</b> 14:7 <b>human</b> 41:17 42:3,12,16,19 46:9 <b>hundred</b> 19:24 20:14,26 21:2,12, 13,19,27 <b>hundred-page</b> 21:22 <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <b>i.e.</b> 15:23 <b>idea</b> 21:18 27:16 28:28 45:9 <b>identified</b> 37:23 <b>identify</b> 17:18 <b>identifying</b> 22:3 46:28 <b>identity</b> 8:4 <b>image</b> 40:3 47:25 <b>images</b> 38:24 39:27 47:4,7,18 50:16 <b>IMES</b> 27:5 <b>immediately</b> 16:4 60:16 <b>implicate</b> 22:5	<b>importance</b> 13:9,12 <b>important</b> 36:1 52:11 <b>importantly</b> 55:13 <b>impose</b> 10:10 <b>impracticable</b> 41:27 49:27 <b>inadvertent</b> 48:9 <b>include</b> 28:11 37:20 45:16 <b>included</b> 47:26 57:1 <b>includes</b> 28:16 37:26 <b>including</b> 26:5 47:24 <b>incredibly</b> 43:15 <b>indefinitely</b> 36:21 39:18 <b>individual</b> 17:23 18:19 21:1,8 32:17 44:19 45:6,28 46:2,9 58:27 <b>individually</b> 34:2 <b>individuals</b> 42:21 44:22 <b>inform</b> 28:24 29:23 37:6 <b>informal</b> 5:7,8 9:15 10:21 11:5,9, 11 35:14 <b>informally</b> 12:22 <b>information</b> 7:26 8:1 12:7 14:27 15:11 17:24 30:1 32:5,17,22 33:21 34:17,18,27 37:14,18,24, 26,27 38:2,3,4,13 39:1 40:1,4,5,6, 25 43:11,15 45:2,4,8,11,14,17 46:24,28 47:1,12,28 48:16,24,27 49:1,2,8,12 50:24 <b>informed</b> 26:11 <b>initial</b> 7:14 29:2,17 32:7 <b>initially</b> 36:15 <b>inside</b> 17:24 <b>insist</b> 8:20 <b>instance</b> 14:28 36:24 38:21 44:16,22 45:1,22 60:16 <b>instances</b> 42:18 <b>institution</b> 13:6 <b>instruction</b> 43:14 <b>intention</b> 14:18 <b>intentional</b> 43:16 <b>interface</b> 16:19
---	--	--

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: introduce..magistrate

<b>introduce</b> 49:23	<b>just--</b> 55:16	<b>letter</b> 9:2,19
<b>inventory</b> 26:7		<b>letting</b> 52:5
<b>investigated</b> 37:1 39:8	<b>K</b>	<b>level</b> 22:27 23:1
<b>involves</b> 25:7	<b>Kamamoto</b> 56:20	<b>liaison</b> 63:14
<b>issue</b> 3:17 6:16 8:8,12,18 9:15,16 10:14 11:8,17 12:22 17:2 19:3 20:11 21:24 22:2 23:6,17 24:11 32:10,23 36:2,4 37:11 39:10,16 41:2,4 43:17,22 48:3,10 49:18 57:24,26 60:7,15,22	<b>key</b> 40:1,12,25 46:24	<b>life</b> 16:15
<b>issue-by-issue</b> 22:20	<b>Kiesel</b> 1:17,22	<b>light</b> 60:24
<b>issues</b> 3:11 4:7 5:8 7:15,20 9:3 10:16 11:7 12:19 20:25 21:27,28 22:5 28:4 32:15 34:11 60:19 62:3, 4	<b>kind</b> 28:6 32:9 41:18 42:12	<b>limit</b> 27:3
<b>issuing</b> 55:19	<b>kinds</b> 23:8 27:6	<b>limitation</b> 57:22
<b>item</b> 6:15	<b>King</b> 2:14	<b>limitations</b> 44:16
<b>items</b> 6:13 49:9	<b>knowing</b> 17:24 18:9	<b>limited</b> 15:5 29:4 31:6 32:8 41:25 57:18
<b>J</b>	<b>KUHL</b> 1:4	<b>lines</b> 53:3
	<b>KWON-CHANG</b> 1:5	<b>link</b> 61:27
	<b>L</b>	<b>linked</b> 42:4 45:5
	<b>laboring</b> 55:24	<b>list</b> 5:3 6:18 29:10 30:20 45:22
	<b>LACOURTCONNECT</b> 3:1 39:11	<b>listed</b> 56:27
	<b>Laddon</b> 2:22,23	<b>listen</b> 15:26
<b>JCCP</b> 3:14,24 4:23,25 5:26 6:23 25:7 52:26 53:9,26 57:1 58:8,11	<b>language</b> 27:10	<b>listing</b> 20:20 57:21
<b>JCCP5255</b> 1:1	<b>largely</b> 35:20 41:28	<b>litigation</b> 22:11,17 40:28 42:6,25 43:1,4 45:23 48:14 51:9 53:4,12 55:10,28
<b>Jeffcott</b> 1:18 23:13 25:21 52:23 53:24 54:7,17,23 55:26 56:24 57:9 58:1 59:6 62:15	<b>latest</b> 25:2	<b>live</b> 22:21 58:19
<b>Jennifer</b> 1:15	<b>law</b> 1:17,25 8:4 11:14 20:19 21:27,28 22:5,19,24,28 23:6 36:9 39:6,21 40:8,21 42:15,26,28 46:19 47:8,14,20 48:19 49:21 51:8 55:14,15	<b>lives</b> 13:7
<b>Jesse</b> 1:19 6:10 8:14	<b>lawful</b> 40:12,21	<b>lodged</b> 59:23
<b>joint</b> 3:9 5:5 6:21 7:10 9:21,22,28 13:27 17:22 24:13 28:27 35:25 51:25,27 56:27 57:12 59:15	<b>lawfully</b> 48:15	<b>long</b> 34:22 61:25
<b>Jonathan</b> 2:26 60:4	<b>lawyers</b> 4:11,12 27:9	<b>longer</b> 37:8
<b>judge</b> 3:26 4:13 5:21 6:6 7:9,12 9:7,12 53:21	<b>laypeople</b> 27:9,18	<b>looked</b> 13:27 17:8 18:7 39:4
<b>judgment</b> 19:28	<b>layperson</b> 26:24	<b>LOS</b> 1:3
<b>Judicial</b> 13:23 16:14	<b>lays</b> 41:23	<b>lose</b> 33:11
<b>July</b> 17:20 18:1	<b>lead</b> 39:11	<b>lost</b> 48:12,15
<b>jump</b> 3:5 25:18	<b>learning</b> 42:1	<b>lot</b> 9:24 13:21 16:3 17:3 18:16 24:19,20 27:22,23 33:11 35:25 37:16 54:3
<b>June</b> 17:17,26 35:12 63:3,6	<b>leave</b> 12:18,24	<b>M</b>
<b>jurisdictions</b> 20:21	<b>length</b> 9:21,23 19:26 24:11	<b>machine</b> 42:1 46:4
<b>jury</b> 43:10,14,27	<b>lengths</b> 19:17 20:3 23:25	<b>made</b> 4:8 16:15 35:4 37:2,15 41:13 45:25 54:20
	<b>lesser</b> 14:27	<b>magistrate</b> 7:9,12 9:6,12
	<b>let alone</b> 21:8	



SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: maintain..oar

<b>maintain</b> 45:12	<b>metadata</b> 47:27	
<b>maintains</b> 36:21	<b>millions</b> 42:22,23 44:23	<b>N</b>
<b>majority</b> 42:24	<b>mind</b> 6:6 21:18 26:9 57:24	<b>named</b> 57:14
<b>make</b> 14:16,22 16:9 19:27 23:28 28:13 29:25 35:1 38:12 40:9,23 42:23 46:18,22 47:28 48:6,23 49:1 54:21 55:19,28 56:14 61:11 62:11	<b>mindful</b> 20:13	<b>names</b> 9:13
<b>makes</b> 36:16 55:12 62:27	<b>minor</b> 60:15,27	<b>narrow</b> 30:9
<b>making</b> 29:24 40:24	<b>Minor's</b> 60:20	<b>narrower</b> 20:16
<b>manual</b> 42:21	<b>minors</b> 57:18,19,25	<b>National</b> 38:7,27
<b>mass</b> 25:7	<b>minors'</b> 61:15	<b>nature</b> 15:5
<b>master</b> 16:17 17:19 23:2	<b>minute</b> 4:15,21 7:6 8:12 10:22 17:16 19:12 31:1 38:26 57:3 62:23 63:15	<b>NCMEC</b> 36:18,19,21,22,27 37:3, 7,14,27 38:6 39:20 40:16,17,18 41:20 42:24 43:5,23 44:5,28 45:11,24 46:1,10,20 47:16 48:23 50:18,19,21
<b>mastered</b> 14:9	<b>Miro</b> 60:24	<b>needed</b> 19:21 29:8 60:13
<b>material</b> 15:3 47:26	<b>mirroring</b> 38:23	<b>needlessly</b> 6:2
<b>Matt</b> 2:14 5:12	<b>missing</b> 27:1 38:8,28	<b>negotiate</b> 29:20 36:10 37:28
<b>matter</b> 16:24	<b>mix</b> 59:2	<b>negotiating</b> 28:7 29:3 37:16 49:11
<b>Matthew</b> 1:25 2:11	<b>models</b> 42:2	<b>non-california</b> 23:5,22
<b>MDL</b> 3:14,22,24 4:12,22,24,28 6:8,24 7:2 8:19,24 10:1 18:21 20:15,18,26 23:7,11 52:24 53:7,9 56:13 60:11,17	<b>modify</b> 5:24	<b>nonappearance</b> 31:10 35:12 63:4,6
<b>means</b> 31:10,12 40:21 43:11 48:25 49:6	<b>moment</b> 12:3	<b>nonappearances</b> 31:23
<b>meant</b> 27:16	<b>Monday</b> 22:8	<b>nondesignated</b> 8:4
<b>meantime</b> 44:28	<b>month</b> 10:28 23:19 62:19	<b>nonetheless</b> 48:28
<b>mechanism</b> 50:23 55:27	<b>months</b> 25:9	<b>nonprofit</b> 38:10 40:20
<b>mechanisms</b> 56:9	<b>mooted</b> 23:17	<b>Northern</b> 7:23
<b>media</b> 1:2,13,25 32:5	<b>Morgan</b> 1:18	<b>note</b> 10:4 26:10 29:15 49:19
<b>mediate</b> 34:9	<b>morning</b> 1:12,16,24 2:1,4,7,10, 13,16,19,22,25 5:15 39:13 61:24	<b>noted</b> 1:7 5:19
<b>meet</b> 5:4 8:25 18:25 49:7 50:11, 27 51:8	<b>motion</b> 5:9 6:19 10:9,12,27 12:15 14:25 15:24 16:1,7 29:16 51:6,9, 13 54:16,26 63:10,11	<b>notes</b> 62:22
<b>meet-and-confer</b> 32:23	<b>motions</b> 12:16 13:5 14:24,26 15:28	<b>notice</b> 10:26 33:20 40:1,7 42:7 63:15
<b>meeting</b> 37:5	<b>move</b> 8:12 9:7 12:9,12 25:13,28	<b>noticed</b> 6:19 10:9,12 51:9
<b>mention</b> 56:14	<b>moved</b> 61:23	<b>noting</b> 16:16
<b>mentioned</b> 44:5 49:9 52:12 55:18 56:28 57:12	<b>moving</b> 16:18 20:17 22:3,26 61:20 62:12,17	<b>nub</b> 49:18
<b>message</b> 9:11	<b>multi-plaintiff</b> 58:13	<b>number</b> 1:1 24:8 47:25 58:10,14
<b>met</b> 14:2 28:3 36:6 60:14	<b>multiple</b> 14:26 20:21 55:22	<b>numerous</b> 40:18
<b>Meta</b> 2:18,20 18:14 37:21	<b>Munger</b> 2:2,26	<b>O</b>
		<b>oar</b> 55:24

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: objection..portion

<b>objection</b> 6:14 <b>obligation</b> 35:2 <b>observe</b> 29:16 <b>observed</b> 15:9 <b>obtained</b> 39:7 <b>obtaining</b> 13:3 <b>offender</b> 46:27 <b>Olson</b> 2:3,27 <b>ongoing</b> 53:12 <b>online</b> 3:6 55:5 <b>open</b> 1:10 10:18 13:9,13 31:12 <b>opening</b> 18:13 <b>operates</b> 57:26 <b>opinion</b> 24:3,5 25:20 43:18 <b>opponent</b> 8:6 <b>opposed</b> 20:21 44:22 <b>opposing</b> 12:7 <b>opposition</b> 18:3,4,7 <b>order</b> 3:8,13,19,23 4:15,21 5:4, 16,20,22,28 6:3 7:6,8,9,13,16,18 8:19,24 9:1,4,13 10:11,22 11:19, 27 13:25 17:16 19:12,13 20:2 23:27 24:7 26:11 31:2 32:6,26 35:4,19,24 37:6,17,28 38:1 41:14 43:18 44:24 45:10 47:14 48:2,18 49:11,15 51:8,16,23 52:1,2,4,5, 19,24,28 53:4 56:22,25 57:3,8,13 59:13,15,22 61:6 62:26 63:15 <b>ordering</b> 51:6 59:4 <b>orders</b> 4:3 5:2,4 9:2,28 15:20 41:6,8 51:22 52:9,10 53:23 55:19 <b>Ordinarily</b> 28:15 <b>ordinary</b> 15:8 36:17 61:9 <b>Oregon</b> 22:14 <b>Orent</b> 60:4 61:12 <b>organized</b> 57:6 <b>originally</b> 36:11 <b>outlined</b> 5:16 6:20 <b>outset</b> 36:3 <b>outstanding</b> 11:6	<b>overask</b> 27:6 <b>overdesignate</b> 15:21 <b>overlap</b> 41:7 <b>overredact</b> 15:10,19 <hr/> <b>P</b> <hr/> <b>pace</b> 62:17 <b>pages</b> 19:24 20:14,27 21:2,3,9, 12,13,19,20,21,27 22:21 30:19 <b>paid</b> 55:20 <b>Panish</b> 1:19 <b>paper</b> 15:2,10,18 54:11 <b>parallel</b> 53:3 <b>part</b> 29:25 42:26 47:23 52:12 <b>parties</b> 6:25 7:15 12:20 19:18 20:13 24:19,20 28:1 29:12 31:2 33:13 35:7 36:6 37:15 39:17 41:3 50:2,10 52:6 53:28 55:17 59:14 <b>parties'</b> 3:13 7:14 41:5 <b>parts</b> 11:23,26 12:14 44:12 59:20 <b>party</b> 8:5 12:6,7,8,11 14:2 15:4,9, 18,20 <b>pass</b> 59:6 <b>past</b> 46:20 <b>patent</b> 7:25 <b>Paul</b> 1:22 2:20 18:13 <b>people</b> 10:21 16:9 17:3 55:23,24 56:1,17 57:21 <b>percent</b> 52:25 <b>periods</b> 16:23 <b>permissible</b> 49:24 <b>permission</b> 13:3 <b>perpetrator</b> 45:18 <b>personnel</b> 40:19 47:5 <b>perspective</b> 20:16 21:6,14 30:26 <b>phonetic</b> 56:21 <b>photo</b> 38:20 <b>photographs</b> 38:18 <b>pick</b> 22:9	<b>picked</b> 28:26 <b>pictures</b> 38:13 44:11 <b>piece</b> 41:19 42:22 54:11 <b>pieces</b> 44:23 <b>piercing</b> 10:11 <b>Pierson</b> 2:4,5 <b>place</b> 4:28 5:20 26:16 <b>places</b> 13:16 <b>plaintiff</b> 22:15 23:22 24:16 26:1, 5,25 27:7,23 28:15 29:3,9,20,22, 25,27 30:2,9,11 31:5,16 32:27 33:8,14 35:8 40:6 44:10 45:6,23 46:11 50:26 <b>plaintiff-by-plaintiff</b> 22:27 <b>plaintiffs</b> 1:21,23 5:3,17 6:11 8:15,25 11:3 15:24 17:17 18:3,8 21:6 22:3,4,6,7,8,13,14,22 23:3,5, 14,16 24:22,25 25:8,13,22 26:19 28:23,24 29:4,12,24 30:7,23 32:3 33:16,18,26 34:2 35:9 36:11,15 37:2,6,22,25 38:26 39:1,4,9,15,21 41:15 42:7 43:9,20,25 45:14 46:24 47:13 48:7,13,17,26,28 49:23 50:16 51:6 52:20 57:14,18, 19 58:7,9,10,12,15 59:1,3,11 60:5 62:14,18 <b>plaintiffs'</b> 6:9 7:21 10:11 25:8 27:11 28:12,23 30:25 31:6 36:28 40:25 41:13 46:16,17 56:21 63:14 <b>plan</b> 22:8 <b>planned</b> 61:21 <b>play</b> 21:2 <b>played</b> 20:19 <b>pleading</b> 19:16 <b>pled</b> 23:3 <b>point</b> 5:27 12:18,25 15:23 17:6 19:18 23:19 28:5 31:18 32:21 33:19 34:12 56:17 59:12 60:21,22 61:3 <b>pointed</b> 30:9 <b>points</b> 41:12 <b>pornography</b> 39:27 <b>portion</b> 9:22
---	--	--

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: position..realize

<b>position</b> 53:15 58:25 <b>positions</b> 3:16 19:27 20:6 41:5 <b>possess</b> 39:28 <b>possessed</b> 43:26 <b>possibility</b> 18:18 52:21 <b>post</b> 26:5 <b>posted</b> 55:5 <b>posting</b> 5:6 56:28 <b>potential</b> 30:1 47:22 <b>potentially</b> 22:19 29:23 38:19 47:15 62:8 <b>powerful</b> 43:15 <b>practicably</b> 42:7 <b>practice</b> 10:6 <b>practices</b> 15:8 36:18 37:7 <b>preach</b> 55:16 <b>precedence</b> 13:8 <b>precise</b> 24:6 <b>preclude</b> 42:15 <b>Predicates</b> 24:14 <b>prefer</b> 10:17 48:26 49:14 <b>preferable</b> 34:22 <b>present</b> 4:17 8:28 21:16 30:24 <b>preservation</b> 33:9,14,22 35:2,5, 8,23 36:10 37:6,16,28 38:1 41:13 45:10 48:2,21 49:11,13,15 62:26 <b>preserve</b> 36:8 41:16 43:21 45:12 46:20,23 49:8,9,12 <b>preserved</b> 36:22 37:13 40:10 43:23 47:28 48:24 <b>preserving</b> 36:5 37:18 38:2 48:5 <b>pretty</b> 57:20 <b>prevent</b> 52:28 <b>preview</b> 11:6 <b>principles</b> 4:16,22 5:15 7:7 <b>printing</b> 59:20 <b>prior</b> 30:1,2 39:26 46:23 <b>priority</b> 3:10	<b>private</b> 44:11 53:2 <b>privilege</b> 10:16 52:18 <b>problem</b> 16:22 19:5 27:10 52:23 <b>procedures</b> 14:4 <b>proceed</b> 6:7 10:9,17 61:23 <b>proceedings</b> 1:9 4:4,5 6:3 8:25, 27 36:3 44:4,6,7 49:20 63:22 <b>process</b> 5:20 10:21 14:6 25:19 45:13 52:14 <b>producing</b> 15:20 <b>product</b> 10:8,12 <b>production</b> 30:7 31:5 <b>productively</b> 36:7 <b>products</b> 16:21 <b>Professor</b> 55:3,12 <b>programmatic</b> 41:28 <b>progress</b> 37:16 <b>properly</b> 33:11 <b>proposal</b> 3:17 16:14 21:7 33:26 35:9 41:18 46:16,17 50:19 55:1 <b>proposals</b> 42:14 <b>propose</b> 4:14,15,21 8:23 9:8,14 13:23 19:16 27:28 29:24 33:12 <b>proposed</b> 3:13 5:3,4,11,20,23 7:14,17 9:1,4,28 11:4 19:13 20:2 21:6,27 23:27 24:7 28:1,21 30:24 31:2,5,16 32:7 33:25 35:19 36:15 41:6,8,13,15 48:18 50:2 51:16,22, 23 52:1,2,4,5,9,13 56:13,22,25 57:8,13 59:13,15 61:6 <b>proposing</b> 14:14 42:19 46:11 51:3 <b>propound</b> 28:23 <b>protect</b> 43:18 <b>protections</b> 7:28 <b>protective</b> 7:8,13,18 8:19,24 9:1, 2 11:27 <b>prove</b> 43:12 44:9,12,15 60:13 <b>provide</b> 5:3 35:10 38:28 39:28 40:20 44:11 46:23 47:22 48:16,26 50:24	<b>provided</b> 28:21 30:1 40:2,6 48:17 56:3 <b>providing</b> 39:26 47:11,18 50:20 <b>provision</b> 8:21 54:1 <b>pseudonyms</b> 57:14,21 <b>Purely</b> 29:6 <b>purpose</b> 14:22 24:8,10 30:8 <b>purposes</b> 8:26 9:18 24:7 29:6 41:25 49:16 <b>pursue</b> 49:22 55:28 <b>put</b> 15:6 17:12,15 18:20 19:12 31:1 49:15 <hr/> <b>Q</b> <hr/> <b>question</b> 8:11,12 22:20 25:18 30:17 39:4,8 43:9 54:17 60:22 <b>questions</b> 25:17 26:13 27:13 52:16 <b>queue</b> 52:2 <b>quick</b> 34:15 41:11 <b>quicker</b> 10:28 <b>quickly</b> 12:13 34:5,17,27 50:13 <b>quote</b> 25:23 <hr/> <b>R</b> <hr/> <b>Rahul</b> 1:21 <b>raise</b> 55:27 60:8,15 <b>raised</b> 7:21 22:2 36:4 <b>raising</b> 36:24 <b>Ravipudi</b> 1:20,21 <b>re-respond</b> 26:27 <b>re-responded</b> 26:27 <b>reach</b> 21:15 <b>read</b> 3:15 43:13 <b>reading</b> 35:27 <b>real</b> 13:8 <b>reality</b> 38:23 <b>realize</b> 16:3
--	---	---

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: realtime..sealed

<b>realtime</b> 40:7	<b>repeat</b> 3:4	<b>respects</b> 35:1
<b>reason</b> 18:28 36:22 58:13	<b>reply</b> 18:5,6,10,14	<b>respond</b> 31:7 41:12
<b>reasonable</b> 28:9	<b>report</b> 3:10 5:6 6:7,21 7:10 13:27 24:13 28:27 35:25 37:3,8,9 39:18, 19 45:25 46:5 51:25,27 52:12 56:3,27 57:12 59:16	<b>responded</b> 4:24,25
<b>reasons</b> 17:8 42:13 54:3 55:18	<b>reported</b> 39:6 41:20,25 42:8 43:23 46:10 58:7	<b>response</b> 50:13
<b>recall</b> 3:19 22:1	<b>REPORTER</b> 1:5	<b>responses</b> 6:23 24:26 25:11
<b>received</b> 21:17 29:9 30:13	<b>reporter's</b> 3:7	<b>responsibilities</b> 33:23 35:5
<b>recently</b> 57:1	<b>reporting</b> 36:18 37:7 41:23,26, 28 43:5 44:6 46:19 48:20,22	<b>resubmit</b> 58:2 59:14,17,26
<b>recognize</b> 43:20	<b>reports</b> 36:19,27 37:3,27 38:11 42:23 45:1,5,11 46:1	<b>revictimize</b> 41:21 43:28
<b>recognized</b> 41:16	<b>repository</b> 39:20	<b>revictimizing</b> 42:13 44:24
<b>recollection</b> 30:10	<b>represent</b> 36:17 38:21	<b>review</b> 23:20 27:24 28:2 31:3,4, 10 35:12 41:11 42:3,12,16,19,22 44:23
<b>recommend</b> 13:15 25:14 27:8	<b>representation</b> 37:2	<b>reviewers</b> 41:17
<b>record</b> 10:17 13:4 15:7 38:5 54:20,21	<b>repropose</b> 19:17	<b>revised</b> 7:17
<b>recorded</b> 25:11	<b>request</b> 3:10 28:12 29:5,24 51:18 60:26 61:6	<b>revisions</b> 8:26
<b>recordkeeping</b> 58:21	<b>requested</b> 19:13 30:14 34:18 57:13	<b>rider</b> 54:2,4,5
<b>red</b> 31:18	<b>requesting</b> 32:3	<b>risks</b> 7:27
<b>redact</b> 12:3	<b>requests</b> 4:23 28:16,20,22 29:10,17 30:16,20 32:1,7	<b>road</b> 58:25
<b>redacted</b> 15:6 47:5	<b>require</b> 8:21 9:13 10:11 42:21 58:20	<b>Rogers</b> 3:27 4:13 5:21 53:21
<b>redaction</b> 47:8	<b>required</b> 4:20 8:5,26 12:5 42:26 48:11	<b>route</b> 49:22
<b>redacts</b> 15:4	<b>requirements</b> 51:8	<b>rule</b> 12:1 13:2 16:7,10,27 61:9
<b>referenced</b> 16:17	<b>research</b> 8:3	<b>rules</b> 13:10,26 15:14 16:5,13 47:20 56:11,12,13,16
<b>refiled</b> 60:11,23 61:10	<b>reserve</b> 58:25	<b>ruling</b> 13:4
<b>refiling</b> 60:17 61:3	<b>resolution</b> 5:8	<b>run</b> 16:27 19:1 34:22 41:22
<b>reflect</b> 7:6,16	<b>resolve</b> 34:5	<b>running</b> 17:28 36:9
<b>reflects</b> 13:11	<b>resolved</b> 29:18 36:25 60:21 62:8, 11	<b>runs</b> 42:28
<b>refresh</b> 30:10	<b>resolves</b> 37:11	
<b>regard</b> 56:23 59:4	<b>resources</b> 47:14,17	<hr/> <b>S</b> <hr/>
<b>regular</b> 10:26	<b>respect</b> 7:27 32:1 33:17 56:26	<b>satisfy</b> 11:13
<b>rejected</b> 60:12	<b>respectfully</b> 29:13	<b>schedule</b> 17:11,12 20:2 51:14,19
<b>related</b> 38:3 47:13	<b>respective</b> 3:16 20:6	<b>scheduled</b> 17:7 32:23
<b>relating</b> 29:11,17 37:14,27		<b>schedules</b> 17:8
<b>relevant</b> 31:6 37:22 38:4 42:6 45:22		<b>Schmidt</b> 2:19,20 18:12,13 20:8 21:24 22:25
<b>remaining</b> 34:12		<b>science</b> 16:20
<b>remains</b> 37:11		<b>seal</b> 12:4,9,12 13:3 14:2,5
<b>remarkable</b> 21:13		<b>sealed</b> 15:10
<b>renegotiate</b> 53:27		

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: sealing..state

<b>sealing</b> 13:25 14:10,15,19,21,24, 26 15:3,12 <b>seated</b> 2:28 <b>secret</b> 7:26 <b>secrets</b> 7:28 <b>section</b> 20:25 24:13 <b>seek</b> 53:11 <b>seeking</b> 14:2 <b>select</b> 23:21 <b>selected</b> 25:1 <b>sell</b> 27:2 <b>send</b> 28:6 <b>sense</b> 14:23 19:20 36:16 61:11 62:27 <b>separate</b> 8:2 13:25 16:2 18:8 31:26 37:16 42:5 57:8 59:23,24 <b>separately</b> 35:3 49:16 58:20,22 <b>separating</b> 59:21 <b>serve</b> 30:8 62:3 <b>served</b> 4:24,25 6:23 30:18 <b>service</b> 51:24 58:24 59:13 <b>SESSION</b> 1:6 <b>set</b> 4:15,21 14:1,3 19:14 20:6 31:11,26 32:14 35:12 42:5,20 58:3 61:17 62:24 63:2,3,9 <b>setting</b> 13:12 14:7 19:10 20:2 62:6 63:7 <b>settled</b> 61:22 <b>settlement</b> 26:6,7 60:14 <b>sex</b> 23:4 <b>sexual</b> 57:20,27 <b>share</b> 49:7 <b>sharing</b> 37:25 <b>she'll</b> 5:21,23 <b>Shea</b> 1:19 <b>shed</b> 60:24 <b>sheet</b> 26:5,13 27:7 28:16,17,20, 25 29:3,9,21,22,25,27 30:2,14,19, 21,24,26 31:15,16 32:13	<b>sheet all</b> 26:1 <b>sheets</b> 24:17 26:8 27:23 28:2 30:11 31:3,7,27 32:27 <b>shift</b> 23:5 <b>short</b> 17:18 32:9 <b>shorten</b> 10:25 <b>shot</b> 15:13 <b>show</b> 43:12 <b>shown</b> 43:27 <b>side</b> 1:27 5:10 9:21,23 15:6 33:5, 6 55:10,20 62:1 <b>sides</b> 11:13 12:22 25:4 33:11 36:4,23 43:18 <b>sign</b> 54:11 61:7 <b>signed</b> 7:9 <b>significant</b> 23:10 50:15 <b>significantly</b> 30:22 <b>signing</b> 3:7 <b>Silver</b> 55:4,12 <b>similar</b> 9:27 10:1 11:20 18:24 23:8 <b>Simonsen</b> 2:16,17 7:12 8:23 9:25 11:2,21 12:27 14:12 16:11 20:11 27:20 29:1 31:28 32:21 35:17,28 38:7,14,17 39:3 41:9,12 42:17 43:2,19 44:3,14 45:7 46:1,6 49:4 58:5,23 61:28 62:27 63:12, 19 <b>simpler</b> 58:21 <b>simplify</b> 27:18,19 <b>simply</b> 15:14 <b>simultaneous</b> 9:22 10:20 51:3 <b>single</b> 41:19 42:22 <b>sitting</b> 55:24 <b>situation</b> 10:19 <b>situations</b> 4:9 <b>Sixty-one</b> 58:18 <b>slightly</b> 14:8 <b>slowly</b> 56:16 <b>smaller</b> 30:22	<b>smart</b> 30:23 <b>Snap</b> 2:3,27 <b>snapshots</b> 37:22,24 <b>social</b> 1:2,13,25 32:5 <b>sole</b> 36:26 <b>solicited</b> 25:23 <b>solution</b> 25:26 34:10 49:25 <b>solve</b> 4:7 <b>solving</b> 13:17 <b>Sonsini</b> 2:8,11 <b>sooner</b> 18:1 <b>sophisticated</b> 26:4 <b>sort</b> 6:18 7:26 10:25 15:10,13 31:15 54:19 <b>sound</b> 6:13 28:9 <b>sounds</b> 18:26 21:13 51:1 <b>source</b> 46:27 <b>Spalding</b> 2:14 <b>speak</b> 5:13 7:3 16:20 20:8 32:15 55:1 <b>specific</b> 9:11 14:15 24:10 25:17 28:12,24 <b>spelled</b> 46:24,25 <b>spent</b> 17:3 <b>spirit</b> 29:14 <b>spoken</b> 3:26 <b>spoliation</b> 48:10 <b>SSC</b> 1:4 <b>staff</b> 14:7 51:26 52:8,16 61:2 <b>stage</b> 15:21 <b>stand</b> 43:10 <b>standards</b> 13:19 14:1,19 <b>standing</b> 52:14 56:12 <b>standpoint</b> 27:11,14 <b>start</b> 3:11,12 25:5 26:16 <b>started</b> 4:1 25:20 36:10 <b>starting</b> 1:14 21:11 <b>state</b> 13:28 14:4 20:19 22:12,16
---	--	--

SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: stated..transitioning

53:16 58:19	33:24	<b>tens</b> 42:23 44:23
<b>stated</b> 58:23	<b>suggested</b> 29:2	<b>tentative</b> 11:12,14,15 17:13
<b>statement</b> 9:21,22	<b>suggesting</b> 44:14	<b>terminology</b> 42:2
<b>statements</b> 9:28	<b>suggestions</b> 27:27 61:18,25	<b>terms</b> 9:8 14:20 21:15 22:18 52:10
<b>states</b> 22:4,7,9,13,26 23:9,10 59:3	<b>summaries</b> 49:26	<b>testimony</b> 12:3
<b>stating</b> 60:13 61:10	<b>summarize</b> 44:25 46:9	<b>Texas</b> 55:4
<b>status</b> 5:6 9:10 29:2,15 31:24,25 58:3 61:17 62:6 63:7	<b>summarized</b> 44:26	<b>theory</b> 55:6,7
<b>statute</b> 40:20 41:23 43:5 44:6 46:8	<b>summary</b> 41:20	<b>thing</b> 16:6 21:26 26:17,28 27:8 57:11
<b>statutory</b> 23:8 48:18	<b>sun</b> 29:11	<b>things</b> 3:20 5:22 6:17,18,20 18:9 27:6,10,25 38:15,22,24 53:18 57:17 59:20 62:12,13
<b>stay</b> 10:15	<b>supplementary</b> 18:22	<b>thinking</b> 16:19 17:4,11
<b>stayed</b> 24:14 29:19	<b>suppose</b> 38:15	<b>Thirty</b> 21:21
<b>steering</b> 56:21	<b>supposed</b> 16:6	<b>thought</b> 13:21 16:21 21:13 27:26 36:11
<b>steps</b> 6:4	<b>Surprise</b> 10:15 13:8,11 17:21, 25,28 18:28 19:1,3,9 24:2	<b>thoughts</b> 28:6
<b>stip</b> 24:6 51:15 52:2 56:25	<b>surprisingly</b> 62:16	<b>thousands</b> 25:7
<b>stipulate</b> 10:28	<b>surrounding</b> 40:1,5,26	<b>threw</b> 17:4
<b>stipulated</b> 20:7	<b>suspect</b> 60:7	<b>tied</b> 30:17
<b>stipulation</b> 14:15 15:13 19:13 20:1,7 23:27 24:2 52:5 54:19 60:9,12	<b>suspected</b> 46:26,27 47:13	<b>Tiktok</b> 2:6,15,24 5:13
<b>streamline</b> 6:3	<b>system</b> 13:9 14:8,9 24:25 25:10 31:10 42:20 51:28 57:7,26	<b>time</b> 1:6 3:3 4:19 5:11 10:25 12:19 16:1,23 17:3 18:7,17 19:27 22:2 23:15,19,25 24:20,23 25:17 33:19 52:20 55:18 56:1 62:25 63:11
<b>string</b> 20:20	<b>systems</b> 41:28	<b>today</b> 4:15 16:24 19:10 31:2 57:3
<b>study</b> 13:14	<hr/> <b>T</b> <hr/>	<b>today's</b> 4:21
<b>subject</b> 15:3 17:13,19 23:14 34:9 53:7	<b>table</b> 28:7	<b>told</b> 22:7 49:10
<b>submission</b> 15:2	<b>tackle</b> 48:3	<b>Tolles</b> 2:2,26
<b>submit</b> 16:13 28:1 31:2,8 32:9 33:13,24 35:7,19 36:18,27 37:10 40:15 42:27 43:24 45:2,8,19 51:13 53:20 54:19 57:8	<b>takes</b> 18:16 24:23	<b>tomorrow</b> 32:24
<b>submits</b> 15:5	<b>taking</b> 25:9 39:11 55:24 59:19	<b>topic</b> 5:2 39:12
<b>submitted</b> 5:21 9:28 39:23	<b>talk</b> 3:18 9:10 10:13 24:16 31:25, 26	<b>topics</b> 5:4
<b>submitting</b> 7:17 50:2	<b>talked</b> 11:17 52:20	<b>tort</b> 25:7
<b>subparts</b> 25:18 26:20	<b>talking</b> 13:1 25:1 38:17,18 40:11 46:15,26 47:6 48:4 52:9	<b>totally</b> 56:6
<b>substantive</b> 14:19 16:1	<b>Tarifa</b> 2:23	<b>tough</b> 50:22
<b>success</b> 9:27 25:28	<b>technical</b> 7:26 8:1	<b>tracked</b> 34:24
<b>sufficient</b> 4:17 13:28	<b>telling</b> 25:8	<b>trade</b> 7:26,28
<b>suggest</b> 15:16 16:12 20:5 29:4	<b>temporal</b> 16:22	<b>transitioning</b> 40:21
	<b>ten</b> 12:10,12 15:1,23 31:24	
	<b>tend</b> 18:9	



SOCIAL MEDIA CASES  
JCCP5255, 05/03/2023

CERTIFIED COPY

MOTION  
Index: traveling..Youtube

<b>traveling</b> 3:27 <b>treated</b> 4:24 11:24 <b>trial</b> 27:5 39:1 43:9 49:23 61:21, 23,24 <b>trials</b> 58:26,27 <b>triggered</b> 35:2 <b>trucking</b> 62:21 <b>trust</b> 58:20 <b>turf</b> 6:27 <b>turn</b> 7:8 29:23 <b>turned</b> 34:16,17,23 <b>turning</b> 52:20 <b>Two-1</b> 25:1 <b>type</b> 6:4 38:1 40:2 <b>types</b> 37:17 60:18 <hr/> <b>U</b> <hr/> <b>ultimately</b> 33:6 54:11 <b>unable</b> 51:4 <b>unclear</b> 49:21 <b>underlying</b> 14:25 <b>understand</b> 11:24 15:22 16:11 23:28 26:13,24 30:15 32:20,25 34:20,27 40:15 41:5 43:7 49:2 60:18 <b>understanding</b> 7:27 11:14 36:20 38:26 39:5 55:21 <b>Understood</b> 9:25 11:21 43:2,19 59:18,25 <b>uneven</b> 55:18 <b>unfortunate</b> 10:19 <b>unified</b> 18:20,21 <b>unitary</b> 18:5,6,10,14 <b>universe</b> 29:4 <b>University</b> 55:4 <b>unjust</b> 55:5 <b>unseal</b> 16:6 <b>unwound</b> 15:23 <b>upcoming</b> 62:2	<b>update</b> 25:2 <b>usable</b> 50:25 <b>user</b> 16:19,20,23 29:23 32:1,7 42:8 <b>user's</b> 44:19 <hr/> <b>V</b> <hr/> <b>valuable</b> 48:27 <b>vast</b> 42:24 <b>versus</b> 17:21 19:14 <b>victim</b> 40:4 41:21 42:13 45:17 46:27 49:2 <b>victimized</b> 44:10 <b>victims</b> 1:25 44:21,24 50:17 <b>Victoria</b> 2:2 <b>video</b> 39:27 47:24 <b>videos</b> 47:23 <b>view</b> 8:2 14:10 <b>viewing</b> 41:24 <b>views</b> 62:1 <b>violate</b> 46:8 47:19 <b>vis-a-vis</b> 8:19 <b>voluminous</b> 29:10 30:14 <hr/> <b>W</b> <hr/> <b>wait</b> 8:9,22 61:25 <b>waiver</b> 51:24 58:23 <b>walking</b> 32:24 <b>wanted</b> 11:19 52:9 57:15 58:5,8 60:8,15,17,18 <b>wasted</b> 54:10 <b>ways</b> 9:24 30:25 36:14 47:22,27 <b>WEDNESDAY</b> 1:3 <b>weekday</b> 19:4 <b>weekdays</b> 19:5 <b>weekend</b> 19:6 <b>weeks</b> 17:20,28 18:2,4,27 19:4 62:19	<b>weighing</b> 17:14 <b>well-taken</b> 6:1 <b>whatsoever</b> 47:20 <b>whichever</b> 17:22 <b>willingness</b> 38:27 <b>Wilson</b> 2:8,11 <b>wisdom</b> 13:8 <b>wonderful</b> 52:17 <b>word</b> 52:1 <b>words</b> 33:28 <b>work</b> 10:8,11 16:3 18:10 23:20 24:23 25:9,24 34:13 40:8 52:2,13 53:10 54:7 56:3,7,16 59:28 61:14 <b>working</b> 12:20 24:19 62:5 <b>works</b> 39:21 48:19 52:1 56:16 <b>wrinkle</b> 20:18 22:18 <b>written</b> 55:6 <b>wrong</b> 42:2 <hr/> <b>Y</b> <hr/> <b>year</b> 4:1 42:24 <b>yesterday</b> 28:21 <b>York</b> 22:15 <b>Youtube</b> 2:9,12
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